

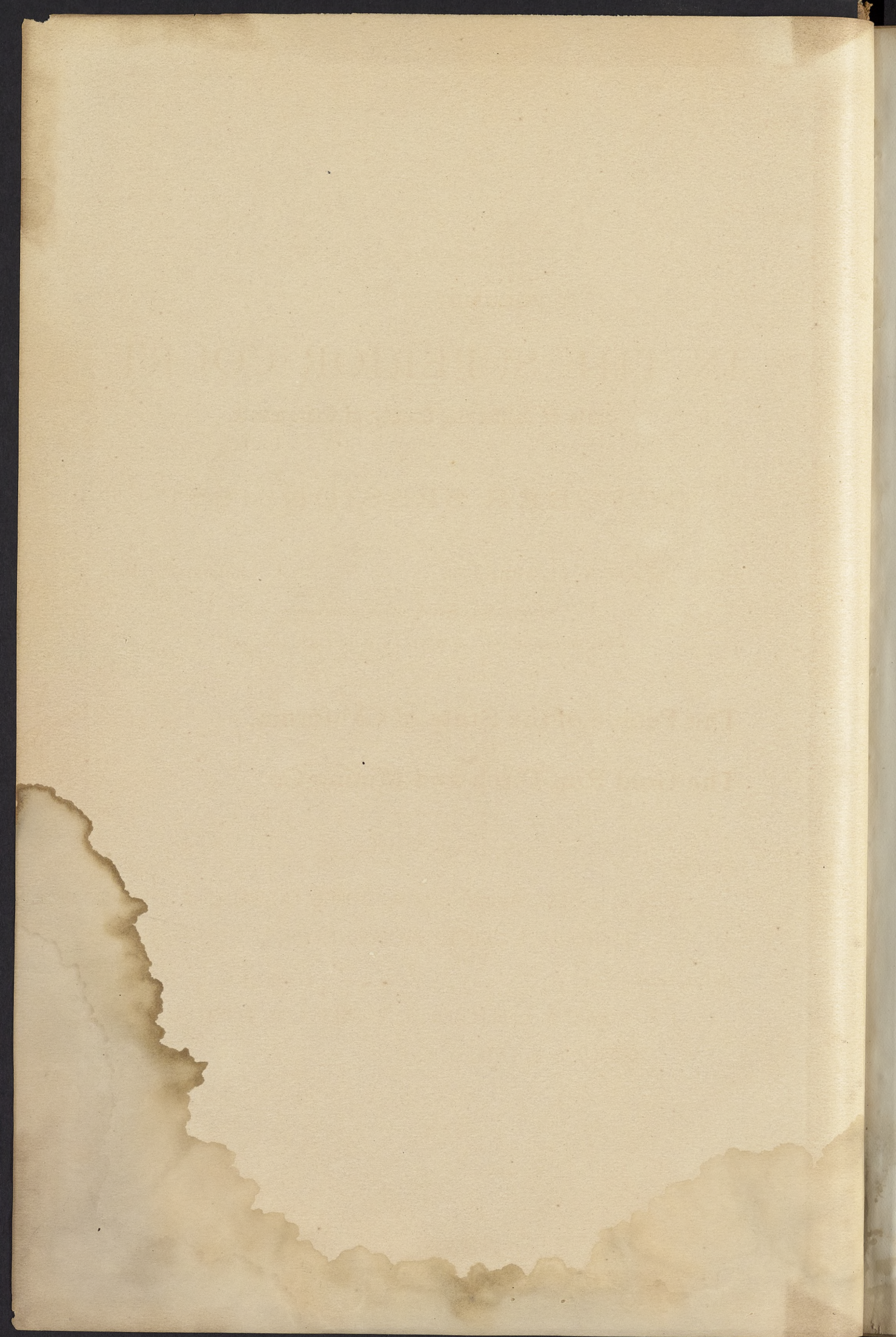
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VOLUME

5

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - PRESIDING JUDGE.

WINFIELD J. DAVIS, OFFICIAL REPORTER.

SAMUEL OSBOURNE AND WILLIAM M. CUTTER, REPORTERS.

The People of the State of California, }
vs. }
The Gold Run Ditch and Mining Co. }

COUNSEL:

For Plaintiff,

HON. A. L. HART, Attorney General, GEORGE CADWALADER, ISAAC S.
BELCHER, A. L. RHODES, RICHARD BAYNE.

For Defendant,

J. K. BYRNE, W. C. BELCHER, S. M. WILSON, W. T. WALLACE, A. B.
DIBBLE, A. P. CATLIN.

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1430

In the Superior Court
of the State of California
in and for the County of
Sacramento

The People of the State of California vs.	} Afternoon Session Monday November 21 st /81
The Gold Run Ditch and Mining Company	

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C. W. Clarke recalled 1403
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Orinfield J. Davis
Official Reporter

Afternoon Session

Testimony of

C. W. Clarke.

Direct Examination resumed

Mr. Cadwalader Now fact is that bluff noticeable from the American river - that sedimentary deposit from the American river? how far does it go on your place from the banks of that river?

A. It goes all over the place clear back for eight or nine miles

Q. You say that it destroys the grass? A. Yes,

Q. And it renders valueless what was formerly good pasture for twenty five hundred or three thousand head of cattle

Mr. Catlin. That is too bad, and we object on that ground Mr. Cadwalader. What was your statement in that regard?

A. Well, where the grass

used to grow fine and nice
the grass does not grow in
fact at all now, but when it
dries out sometimes Cuckle birds
come up in it

Q. How much is its supporting
Capacity for cattle reduced?

A. Well, when we used to
keep a thousand head, I do
not think we could keep a
hundred now

Q. What was the character of
this land of yours originally?

A. It was originally bottom
land

Q. Some tules?

A. Yes. The body of it was tules.
In all days it was all covered
with tules

Q. What kind of pasture land
does that make?

A. It makes very good when
the water goes off it

Q. In what I have all the
tules been used as pasture
so far as the water comes
admit of it?

1404

A. Oh in there we used the

whole of it. The water used to, before the bed of the river filled up, all dry out, and we would use the whole of it in the fall of the year. We would have the benefit of it, up until the water would rise in the winter again and we would use the whole of it. It made fine pasture, ~~plumb~~ until the water came in again. When the floods came in the winter of course it would cover over again. At the present time the water does not go out at all. The bed of the river is as high as it is in there; the water does not go out.

2. When did you acquire that land up there, or commence acquiring it?

A. I rented that land before even I bought it; rented it from parties that owned the land. That is the way I came to get in there in the first place. I had cattle

running in above there; old man Baunon put out a lot of benley and stuff in there and our cattle came down on it. So I rented his place and bought his prop, to let our cattle run in there. I guess that was in 1864.

Q. Do you recollect there being a tide at the mouth of the American river?

A. Yes.

Q. How late have you noticed that?

A. I noticed it within four or five years. We built and put in a kind of pontoon bridge; and the water of a morning, or when the tide came up, would generally back up over the road. I guess it has been four or five years ago since I have noticed it.

Q. What changes have occurred there? how far did the tide go to your knowledge?

A. At that time?

Q. At any time.

A. Well I never took much notice of the tide only right there, right there at the mouth of the river. The tide got less every year and finally it quit coming entirely. The bed of the river filled up so that the tide has never got there at all for the last few years.

Q. Do you know whether the old bed of the Clamenan river has filled up as high or higher than the natural banks?

A. Yes, I think it has.

Q. That is the old bed?

A. The old bed - yes. There has been a great deal of dirt taken out of the old bed of the river inside.

Q. Do you think that it is higher than the natural banks?

A. No. The natural banks are all covered over with sediment. It is filled in and covered over; it is settled in over again. You can see, by digging down, the ^{original} ~~natural~~

layers, where it is filled in every year; and you can dig down and strike nothing but this red dirt

Q. How much higher is the bed of the river than the main land inside from 20th to 24th Street?

A. I think it is considerably higher; two or three or three or four feet may be

Q. That is the old channel?

A. That is not in the channel. That is where the water comes down there and could not pass over. The old channel up there has filled and they cut a new channel. The old channel is filled up

Q. I am speaking of the old channel?

A. I ^{do not} think the old channel is filled up quite as high as the mainland on the inside; I do not think it has from the appearance

Q. Have you looked at it lately there, about 24th Street

A. No. I have not taken any particular notice only just from observation, riding along on the Cars.

2. What was the condition of the Sacramento river as you recollect it before 1860, from the mouth of the new river down to the Bridge?

A. Before they cut through there, the Sacramento river was bluff banks and deep.

A. Steamboat could run in and around anywhere there in the summer time, at low water; anywhere between the old river and the new river.

2. Did you see a bear there north from you after the water went down?

A. Since that time the river all down in there is filled right up, and ~~has~~ it has been hauled away at different times, has been hauled off all the way through. When the flood comes in the winter again it all fills

up in there; in fact it has filled up so that portions of the bar are higher than the mainland; it has filled out for three hundred feet and more, four hundred feet may be

2. Are you able to state how much of the original river channel that bar occupies, say today? That is, before there was any cutting on the Yalo shore?

A Well, I think that the bar covers the whole channel today. That is, from the farthest point right opposite the mouth of the new river now, or just below the mouth of the new river. I was there looking at it yesterday and shoned judge it was about three hundred feet. I drove my buggy in and it was about three hundred feet from there over to the main bank I think the main bank was cut in about three hundred

feet. Consequently, the whole Channel would be in this bar now or very nearly.

Q. Do you recollect where those two snags show themselves above the water about opposite the center of the bar?

A. Out in the middle of the river?

Q. Yes. A. Yes.

Q. Do you recollect where the Yolo shore was?

A. I can not say that I do. But this point I am speaking of is farther west than those snags.

Q. You are satisfied that that bar occupies the whole of the Channel?

A. I think from observation that those snags there were on the main bank, that is on the west bank. This point I am speaking of I think is a little west of there.

Q. How far have you seen that bar come down stream? that is, out of water?

A. Out of water I have

Seen it down clear or pretty near to the bridge; and the point ran clear under the bridge in shallow water, where it would be a few inches deep.

Q. Have you seen steamboats at work there trying to cut or wash that bar off?

A. Yes. I have seen ^a steamer~~s~~ but in there, with her wheels working so as to work the sand off. That was done, I guess, by the mill Company to make a landing. I think it was done by the mill company; they wanted to get a landing in there to get their grain and flour out, and they got this boat to cut it away with the motion of her wheels.

Q. How does that Company ship the greater part of its flour?

A. It ships a great ~~part~~ ^{deal} by car but the greatest part by boat. The most of it they get in on their boat. It comes both ways in fact.

2. Where do they get the larger part of their grain from?

A. I suppose the larger part they get down the Sacramento river by barges.

2. Where does that Company get its fuel from?

A. It gets it from the Mount Diablo Coal Mines.

2. What is the capacity of that mill?

A. I do not know.

2. Do you recollect the old gas works wharf?

A. Yes.

2. Where was that?

A. That was right west of the old gas works; lay right above this mill, right adjoining.

2. Where does that Company receive its coal from; or where did it?

A. It used to receive it by boats that came from below from San Francisco, from ships. The boats brought it up here

2. That was Established there when?

A. I could not tell that 2. Long before the day of the railroads was it not?

A. Yes

2. Have you any idea how much stuff has been hauled in the last ten years or since that bar has formed, into this City?

A. There was one year, the year I spoke about the bar being down so low, when they hauled from Clear down, right opposite the north end of the Gas Works, there. They must have taken off four or five feet right there. As it went on up it increased. I think above they must have taken very nearly eight feet off, And in fact they did come up and haul some from the American river that season. They hauled very much the whole of it Clear through that year and took it off down until

they got as far as they could go for the water; until they got down where it was soft

Q. Do you know when the sediment used in the filling in of this town was obtained from in 1878 and 1879, or a part of it? the sand?

A. There was some hauled from below the city here on that point. That was hauled in for the building of that Y. Street levee

Q. Do you know of any being hauled in the neighborhood of the Lowdale Beach?

A. No. I did not know about that

Q. Up the Riverside road?

A. Oh yes; I knew about that on the Riverside. The sediment came in there. I saw a great many teams hauling there.

Q. Was not that all hauled off?

A. It was pretty much all hauled off. It was

all hauled off from the road in fact, because the road is down to the natural soil now

Q. What kind of soil was that before that stuff went in on it?

A. It was black alluvial soil

Q. What was it used for?

A. It was used for gardening Mr. Catlin. What point are you talking of now?

A. Down on the Riverside road. There were a great many gardens down there, a great many hop vineyards and orchards

Q. What class land was it?

A. It was A. No. 1

Q. You have been engaged largely in agriculture have you not?

A. No, I cannot say that I have

Q. Well, to some extent?

A. To some extent, I have

Q. Have you noticed the condition of the fragments

Say in the last ~~ten~~ or twelve years, below the mouth of the American, as to the sedimentary matter it contained? Say for the ten years commencing back of May, 1881?

A. 1871, you mean?

Q. No. Say from 1871 to 1881. Have you been up and down the banks of the river during that period?

A. Yes. I have been on the river and back and forward all the time.

Q. Are you not very familiar with the banks of the river?

A. Yes.

Q. Do you know all the farms?

A. Yes.

Q. And farmers?

A. I am acquainted with the most of them from here down as far as Walnut Grove.

Q. Well, state what has been the condition of the water of the Sacramento river during that time as to sand or sediment. State what you have

Seen going down stream?

A. In the winter time,
 when there are big floods, as
 long as the levee is kept up
 and to confine the water, it
 runs swiftly; and it carried
 a great deal of this stuff
 down the river and emptied
 it into Fiuman Bay and the
 straits and every where else.
 It carried it off because
 it was confined. When water
 is confined it runs swiftly.
 I have seen sand in going
 along the river there in real
 high water; and after the
 water comes go down I have
 seen piles of this white sand
 three and four feet high,
 where it had been thrown up
 out in the brush; I have then
 seen where this fine white sand
 had been piled up and thrown
 off by the muddied water,
 which had collected on the main
 bank above the bank of the
 river.

2. That proved what?

1. That proved there was a great deal passing off down stream

2. And that it was in the surface water³.

3. Yes, in the water. Last winter I was back and forward. I had ranches below, and my business called me down there at the time of the highest water. I was watching things; and when the water was right up to the very highest I was with the Captain of the Comanche or one of those boats — I think Captain Parish — when coming up. That was when the water was right up; I think it was up to the 25-foot mark. I was in the pilot house of the boat and there commenced a rattling; there was a change in the noise. My wife was along and I said to her, "Do you know what makes that?" She said, "No". "Well" I said "we are running over a sand bar now."

She said "Sand bar!" and commenced laughing at me. The Capt. then spoke up and said "Yes, he is right about that." And he looked up above and saw a break in the water, a kind of break, and said, "There is a kind of float of sand there; we have to bear around and get off of it." The water then was up to the 25 foot mark.

2. What place was that?

A. That was right in the point of the river here, just above Riverside; just above the Mesick break.

2. Was that Captain Parrish?

A. I think it was Captain Parrish or Captain Pratt. It was one of those boats. I was up and down every day.

2. It was one of those boats?

A. Yes, the Comanche, the Apache or one of those boats.

2. The Modoc or Apache?

A. Yes, the Modoc or Apache.

It was one of those two boats I was in at the time

Q. Parrish and Pratt are the oldest Captains in the Service are they not?

A. Well, I think they are most the oldest

Q. Did you ever run on a Steamboat before you come to this Country?

A. Yes, I have run on the Mississippi River

Q. Are you more or less acquainted with water navigation?

A. Yes, I was raised right on the Ohio River and used to boating in Skiffs, Steamboats and Every thing else

Q. And to crossing turbulent Streams with large bands of Cattle?

A. Yes,

Q. Have you noticed in going up and down this river, the effect produced by what is called Seepage water upon the farms on each side?

A. Yes,

Q. State what that effect

is and how it manifests itself?

A When the river gets full clear up to the top of the banks the levees confine the water. The water, will come up against the levee on the outside and the seepage water comes inside. The ground saturates and gets thoroughly full all through. It drowns the trees out. A great many of them dig trenches on the inside and make drains to carry this seepage water off. All the trees bearing stone fruit it generally kills; such as plums, peaches and all those kind of trees. It has the effect to kill the trees.

2. What effect has that had in this section of country, say between here and Walnut Grove on that side of the river?

A Well, I think every time there is high water there have thousands of trees killed by that cause.

2. What effect has it had upon the planting of crops?

A. Of course they can not plant any crops until the water goes down. They can not plant any crops when the ground is as thoroughly saturated with water as that. It is the pressure of the water that shoves it through the pores and raises it right through, and the whole base throughout the levee is like a spring of water which is running right through and running off; just like a regular spring, just like melting water from snow. It runs right through and right off on the low ground.

2. Do you find what are called lateral ditches running through the base of the levees towards the tules; ditches running at right angles to the river; artificial ditches?

A. Oh yes, they make those ditches running through, to draw this water off, so as to save

then fruit trees as much as possible. There are a great many that do that

Q. Does this supage water diminish or increase the area of land capable of cultivation on both sides of this river?

A. It diminishes it.†

Q. To what extent?

A. As the beds of the river fill up, it keeps the water in the tules and keeps it up closer to the banks. They have a smaller space to work on that is out of water; the water stays up longer

Q. How in regard to the tules approaching nearer and nearer the river bank say in the last ten years?

A. I think on the west side it has been more so than on the east side

Q. How is it down here in the lower end of the pocket the last four or five miles? say in the Whitley place?

A. Prior to 1878 I do not think

that we had any breaks in
our levees from here down.

But since that time we have
had breaks and it has been
worse all the time. Of course
they have not had any great
number that raised crops down
there. They did not raise any
crops at all since these breaks
have been coming in. Last year
and in 1878 they lost their
crops; in fact did not get
to put them in, on account
of these big floods.

2. How far down the river
did that state of affairs
extend?

A. It extended on clear to
the Mokelumne.

2. Clear to the Mokelumne River? A. This whole ^{district}
^{district No 2 was.}

the same way all the way down.

Of course after the water went
down or receded, on the borderly
of the river, being higher, they
cultivated and got some crops
in. But the other land they
have not got any in; in
these last few years they have

got no crops in at all on the back land.

Q. Do you know anything about the system of levees that was started on this river in 1852, and has been continued up to this time?

A. I am somewhat posted on that; I have been interested and have spent considerable money on the levees myself.

Q. Have you seen them?

A. Yes, I have seen them;

Q. Seen them very often?

Q. Do you know when the system of levee building really commenced on this side of the ^{Sacramento} ~~Chico~~ river?

A. No, I cannot say that I do know the time when it commenced.

Q. When did you first notice that they were raised too or had attained any considerable height?

A. About 1860 I guess, I loaned some money on a ranch below there that was leveed in.

The water boat in on it; and since that time up to the present I have had considerable to do with them and have been back-and-forth and forward.

2. What have they done, say since 1860, on this river in the way of levee building?

A. Well, there has been a great deal of levee building.

2. To what extent?

A. Down below, after you get below Freeport, down below is there all along, where ever I would strike, the ranches have worked and pretty much put up all their own levees in the last eight or ten years; they have done a great deal of work. I generally struck the river about Freeport in going down over my trip.

Q. How was it on the other side?

A. I was not posted on the other side very much. I see there are levees put up there. I think they worked

About the same, because they
 worked to keep their levees up
 as high on that side as they
 did on this side.

Q. When did they build le-
 vees in front of your lands
 north of the American?

A. That was prior to the
 time I bought.

Q. There were levees there?

A. Yes. ~~There are~~ ^{There are} levees all the
 way up on it, there are some since that have ^{been put there}.

Q. How was it on the Amer-
 ican river?

A. On the American river, ^{there are} ~~there are~~
 some levees standing there yet
 up through the Malden place
 and up through George Cones'.
 That levee extended right on up
 the river there; but above, the
 levee, where the railroad bridge
 cut it at, is all cut away,
 and when the river gets very
 high —————

the back of the river comes
 through above the railroad bridge
 and comes out north of this
 land of ours.

2. The levee districts of the State are numbered?

A. Yes

2. That district up there that your land was in was district No. 1?

A. Yes. Not Sacramento County

2. Where was levee district No 2?

A. The City here is district Number 2, which extends from here to the Mokelumne river and this side of Walnut Grove

2. What was the number of this district across the river embracing the town of Washington?

A. No I think

2. It was all in one district was it not?

A. Yes. That was in the district all the way through

2. Now I will ask you whether or not all the front of the Sacramento river has not been embraced, in forming these districts in which there have

been work of reclamation

A. Yes, I think pretty much the whole river. I do not know of any place but has been. I was interested at Grand Island, in the Pearson district, and those down below

Q. How much has been spent in building the levee at Grand Island?

A. I should judge there had been some 400,000 or 500,000. - dollars, may be more

Q. What rate per acre if any was levied on land in that district for levee purposes?

A. About \$35 an acre

Q. How many acres of land were there in the district

A. 16,000 - and a little over

Q. What is the condition of that Island now as regards levees?

A. The upper portion of it has a splendid levee around it. The water of last winter, piled up so that it went right over the top of the levees. It was

confined and the water got so high that it went right over the levees and tore them out. There has been a kind of dispute among the settlers and panther down there; consequently they have not done any thing on the levees this summer; only some of the settlers have built on their own levees, but the balance is left open.

Q. The Island is not leveed now, is it?

A. No, it is open in places.

Q. Do you know what route the water travels or has travelled on two or three occasions, escaping from the American river into Yolo, and where it would go before it would stop?

A. Well, in 1878, I was out on the water a great deal. I had a lot of cattle on this Island above here. There were panthers that had cattle there before who advised me not to take the cattle out, telling me to let them stay, that they

would be all night. I became uneasy and was backward and forward to feed the cattle there. Finally the water came in there and they were belly deep in water in the highest place there. I finally got the cattle out at the last moment. That night the water raised; the south wind set in and the water raised about four feet where the cattle had been standing. Every thing was full then just to the top. The levees were all full; the water was higher than ever before known. Those mounds over there, those Indian mounds were never covered before. We have one there called the Bacon mound, adjoining us; the water got clear over that. That night the south wind blew and when the water struck them those whole levees let loose. The water went over and struck the far shore, swinging

back and struck this shore
below the railroad and tore
every thing out, then swung
back and struck in by Clark-
burg, and then swung back
the other way

Q. What was Clarkburg?
a town? A. Yes.

Q. Did it go across the
Sacramento river?

A. Yes. It broke there and
went clear over every where. It
went backward and forward;
first it would go one way and
then it would run the other.

Q. Did you ever know it
to travel across Steamboat
slough and break the levees
at Grand Island?

A. It did it at that time.
It went right on down. At
the water came in the whole
of this country here was a
reservoir, and as this water
came down from the north
it filled in here
and so filled the country up
and went in Cache creek slough

and raised right over the top
of the whole of the levees and
the whole
Country down there and then
went right across into the Ja-
guin

2. When did that first occur?

A. That was in 1878

2. It never had occurred
before, had it?

A. Not as I had ever heard
of. I never heard of it oc-
curring before

Mr Catlin. We move that
the last answer be stricken out.

So ordered

Mr Cadwalader State whether
that had ever occurred before
to your knowledge?

A. I do not think it ever
could have occurred before.
I never knew of it. The
reason it occurred that time
was this: on the whole of
the river above here the
levees were built up well.
I was on the river from
there, up to Fremont on that

Side and they had fine levees. In our district over here the levees were all gone and we did not put up any new ones and the water way all confused and it had to go under this bridge and it did not have water way enough, and it accumulated every day for six weeks. (?) And this south wind came in and it shoved the water up there, and when the water came back these levees all let loose and that was the reason it occurred. I do not think it ever occurred before because the water ways were always open so that the water could go down.

Mr. Catlin Which levees are you speaking of?

A. I am speaking of the levees on Grand Island

Mr. Cadwalader. It went straight across

A. It went right across through Grand Island from this side straight across to the other

Mr. Cadwalader - How wide was the Island there?

A. Grand Island?

Q. Yes, Across?

A. I do not think it is over two or three miles wide.

Q. State whether it went across the land?

A. Yes it went across and broke through on the other side.

Q. State whether it crossed old river?

A. Yes. It went right across the old river and through Andrus island and went on down. I do not know where it went to after that, but it went through the other island, Andrus island, and burst clear across.

The Court - When was that?

A. In 1878.

Mr. Cadwalader - Do you know if they had the effect to reduce the level of Steamboat slough by their taking the material out of it in order to construct levees on Grand island. There was a great deal of stuff that was taken

out of the bed of the river to build mounds and to build levees, by machinery, with pumps.

Q. Who put that in?

A. John Williams.

Q. Do you know whether or not the excavations that were made in the bed of the river by Williams' machinery were filled up with sedimentary matter. Williams told me as they would take it out -

Mr Cadwalader (interrupting) You need not tell what General Williams told you.

Mr Cadwalader - Do you know that of your own knowledge?

A. Now I do not know that of my own knowledge. I was not working with the machinery myself.

Q. Did you own any land at that time down on Grand Island?

A. Yes.

Q. You do own there do you?

A. Yes.

Q. When did you become an owner there?

3(a)

A. About 1875 I guess.

Q. How far is the Mokelumne river from old river at Grand Island?

A. I have never been across. It is all tules and I have never been through there and do not know exactly. I do not think it is over four or five miles.

Q. You spoke about this water emptying into the Mokelumne.

A. That is in District No. 2.

Q. What is the agricultural capacity of the land on Grand Island?

A. That is according to whether it is reclaimed or not. It is all agricultural land if it was reclaimed.

Q. I mean, what kind of land is it?

A. Well I think it is the finest body of land anywhere; take the 1600 acres together.

Q. How much wheat will it grow per acre, reclaimed.

A. I have seen 60 ~~busheles~~ bushels on it to the acre.

Q. How is it for green fruits and the like?

A- Well, around the borders of the river, all round, that is fine land, It is the same as it is anywhere on the Sacramento river. It is all fine fruit land. Out back it has never been tried for fruit; it is very rich black soil.

Q- What kind of soil do tules grow in? C

A- As a general thing they grow in good soil, rich black good soil.

Q- First class?

A- Yes.

Q- Can you state whether or not there was any difficulty in cultivating the margins of these rivers, including the Islands, before 1862?

A- The margins?

Q- Yes these lands including the tules, on the river, the Sacramento river?

A- Yes; they were always cultivated.

Q- Without levees?

A- Yes. A great many of them had no levees, in places they cultivated them without levees; whenever the water went down then they

would put them right in.

Mr. Cathi - On the Highlands?

A - No. On the borders of the river below. The highland lies back; it slopes, you know, from the river clear back.

Mr. Cadwalader Were the margins of the islands cultivated?

A - Yes, they were cultivated

Q - Were they cultivated regularly and annually up to 1862, without levees?

A - I could not say that. I was up and down on the boats and I have always seen them cultivating along there on Grand Island back until they came to the tules.

Q - Was there any difficulty in raising crops without levees in this valley on these marginal lands up to the floods of 1862? ^{A -} I do not think there was any difficulty in raising crops after the flood seasons were over. They put them in after the floods were over and then cultivated.

Q - Did the floods produce any serious inconvenience?

A - No. There was no sediment or

6 (a)

anything ^{left} ~~up~~ to that time.

2. Was there not a heavy fill into the tules?

Mr Catlin - We object. Let the witness state what the fill was.

Mr Cadwalader - After 1862 have you noticed difficulties in the way of cultivating these marginal Tracts, from what there were before?

A - I have taken notice, here over on our lands, of the effects this sediment has had, more than anywhere else. My lands below here that I have had, I have used mostly for grazing; have put in alfalfa and used them for pasture and Dairy purposes etc. I have never cultivated land to raise anything except on Grand Island. I put in two or three crops there and lost them all; I had them put in.

2. When did you put this in?

A - I put them in in 1877. There was a crop in there at the time that the flood burst in there in 1878. I had a full crop in there and lost it.

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2. You put three crops in there

7 (a)

and lost them all?

A- Yes, I lost three crops there
 2 State when it became necessary
 to levee in this river in order to raise
 crops on the marginal lands?

A- I think that it was necessary
 to levee the river in any time. But
 as to raising crops, they have always
 raised crops. Those parties that lived
 along the river there and have been
 in that business could answer that
 better than I, for I have not paid
 attention enough to be able to answer
 that intelligently.

2 Could crops be raised there at
 all now without levees; along these
 margins?

A- I think not

2 How long has that been so

A- The last few years. It is getting
 worse every year.

2 When was the new grade of
 Sacramento established? what
 is called the high grade?

A- I could not tell that

2 How with reference to the
 flood of 1862?

A- I think it was since that,

I think it was since 1862, because I recollect the time the water got up into the Golden Eagle Hotel, into the bar-room.

2- What is the height of that new grade above the old soil?

A- I should judge about nine feet, may be more.

2- What section of the city does that high grade now embrace.

A- It embraces from front street up to 11th and then it slopes off.

2- And what cross streets?

A- It includes all the cross streets up to 10th and 11th, between K and I.

Mr. Catlin - Do you say K to 10th street

A- Yes. It is high grade up to 11th street, K street is

2- It would include K street and include I street.)

That would include I. J. and K streets?

A- Yes.

Mr. Cadwalader - How much of front street?

A- Front street extending from

9-a

the mill at the mouth of the old American river, clear down to R. street.

Q- Does it leave any business places outside of the levee where large business are transacted?

A- What? the high grade?

Q- Yes

A- There are the gas-works below there.

Q- But I mean on the outside of the levee.

A- On the outside? no, none that I know of.

Q- Such as Williams' and the Pioneer mill?

A- They are inside; they are on the high grade

Q- They are not inside the levees are they?

A- They connect right on to the levees.

Q- The Pioneer mill is not on the high grade is it?

A- The Pioneer mill is set up even with the high grade; it is above the grade in fact.

Q- How high was the water on that wharf last winter?

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A- At the Pioneer mills?

Q- Yes

A- It was right up close to the floor; it was inside of the mill in fact. It stopped their machinery

Q- stopped the operation of the mill?

A- Yes.

Q- How about Goodhue's lumber yard, down at 2 street

A- I think that is inside of the levees

Q- There are private wharves there are there not?

A- Yes.

Q- The lumber is piled up on the outside is it?

A- Yes. He has a wharf there and the lumber is piled up. I would consider it protected, for they can do it right on the high grade.

Mr. Cattin- Where is that private wharf?

A- It is right at the foot of R. street.

Mr. Cadwalader- How was the water in 1878 on the front of this city as to the Railroad tracks of the Central Pacific?

A - It was over the track

Q The main overland tracks

A - Yes.

Q The cars had to run through the water?

A - Yes.

Mr. Catlin - Let the witness describe it.

Q It was over the tracks, over and along about even with the North side of J. street down for a block or more, a foot deep or more, I guess. I came along on the cars there several times.

Mr. Cadwalader - Running clear down to what street?

A - It ran down to L. street.

Q Did it not run down to 2 str

A - Well it may. It ran shallow the farther down you got, the further down you got the shallower it got.

Q How were those wharves in front of the city?

A - Some of them were afloat: the platforms there.

Mr. Catlin - What?

A - Some of the platforms were afloat there that season, the time the water was up the highest, They

were ~~loose~~ loose

Mr. Catlin - These platforms run from the banks to the hulks?

A - Yes out to the office

Mr. Cadwalader - Those by the Railroad wharves!

A - Yes. Well it belongs to the navigation company

Q Take that high grade of this city at the foot of K, the foot of L and of M. N. O and P streets down to Q. How near did the water come to running over them in 1878 and in 1881?

A. In 1878 I think that it did run over a little; and they put in sacks or something down below there to stop it. In 1881 it got a little higher, still higher.

Q How far across front street did it extend towards the Storelines.

A You speaking now of up opposite K street.

Q From K down to Q, all along, ~~the~~ on high grade.

A. I do not think the water came inside of the depots there towards the maine

2. Well, down opposite Adams,
McNeil & Co.

A. Down there it came up within
50 feet I should judge.

Mr. Catlin - 60 feet of what?

A. 60 feet of coming over on
the side-walks. For instance, you would
go out from the side-walks and go
60 feet across and you would come
to the edge of the water there in a
sag.

2. On the Levee on front street

A. Yes, on front street. It might
have been 80 feet; I do not think it
was any more.

2. What was the condition of this
city at that time, on the south side
of R street?

A. The water was all over the
whole country there, clear out to Poverty
Ridge.

2. Did you live out there at Poverty
Ridge at that time?

A. No. I lived in here on 10th street
at that time. But then I was back and
forwards.

2. You were familiar with that
country were you?

A- Yes,

Q Where did that water come from?

A It came from the Lovedale Break.

Mr. Heathin - When was that you are speaking of now

A - In 1878

Mr. Cadwalader - How did the water flow from that Lovedale break.

It came right in. Of course, the river was a great deal higher than the land, and as the water came in it just spread right out and took its course going wherever the low places were until it could find its level, until it filled up the whole basin. When that got full the water commenced to pass off below.

Q Was there not a distinct current running towards —

A As it came through there was a current of course went in every direction, wherever the lowest current was. It spread, it went in all ~~direction~~ courses in fact. As it would fill up one basin it would start and go to another one; and it

15-a

until kept that up until it all gradually filled up and got full. Then the water cut off a natural channel and flowed off below. The current was all one way then after everything got full above.

Q What I want to know is, if there was not a heavy current running in the direction of Sacramento?

A- There was at first yes.

Q Do you know where the city cemetery was?

A- Yes.

Q Did it cover any part of that

A- It covered all the lower portion of it, the south side of the City Cemetery and clear around them on the East side.

Q Was it surrounded by water?

A- Yes, clear surrounded all the way in, going to the City Cemetery. I went out to a funeral there and the water very nearly came into my ~~carr~~ carriage right on 10th street.

Q How long was that water there?

A- I do not recollect exactly but I think it was there for a month or

so.

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Q Do you recollect the day

that it came so near breaking the R street levee?

A- Yes.

2- If anything saved the town from inundation on that occasion, what was it?

A- It was the work. They filled sacks; men went there and filled sacks and put them in. It was the South wind that had the evil effect, and they put in sacks to protect against the water coming up and splashing against it. The water would ~~and~~ go away and then push and come back. They filled sacks with dirt and filled in to stop it in places. They had to work to do it.

2- How many men were there?

A- I do not know how many; I have no idea.

2- Was not the city saved by a change in the wind just at sun-down.

Mr. Catlin - Asks him ~~where~~ how it was saved.

A- Well the wind ceased, of course, its velocity. But it was a long time, it must have been 24 hours, that the storm kept up

Q Do you recollect the wind suddenly shifting to the north?

A I do not recollect. But I know that the wind ceased so that the waves did not beat against the levee.

Q How much higher was the water on the out-side of the city than it was on the inside?

A I think it was three or four feet; in some places five or six.

Q How high would the waves run in places?

A Oh, the waves would slush clear over the top of the levee. The breakers as they would hit that way would slush and come over.

Q How high is that levee

A It must be eight or nine feet on an average I should judge ~~and~~ Q - And what base

A I could not tell. I suppose about thirty feet.

Q Was it an old or a new levee work?

A It was old

Q Did it have a railroad running on it?

A - yes

Q What distance was it from there to Y street?

A - About a quarter of a mile

Q What was that section of the city used for at that time?

A - Well, used for the houses to flood around in I believe at that present time

Q How before that time?

A - Well there were people lived in there. There were a good many settled in and living around there

Q Was not the house you lived in in that District?

A - yes

Q That was the old Doc. McDonald house?

A - Yes. The water at that place got all around that house but it was not deep. It did not get deep enough to go in the house but it went all over the place, the garden and everything

Q That house was on what street?

A - On 19th and V.

Q What did you say about the houses being tumbled over there and

floating around?

A- There were a great many of them floating around in there at that time. The water got so deep that it turned them over and they floated around in there. The water got so deep and the wind blew so that a great many houses did that.

Q- What effect did it have on the Gasworks?

A- I do not know. I was not down to the gas-works. I did not go there although I am interested in them a little.

Q- Did that make necessary the construction of the Y. street levee?

A- The Y. street levee was not there at that time.

Q- I say, that is Y that has been constructed since?

A- Yes. I think that was the cause of building the Y street levee. We thought it would be a protection.

Q- How long is that Y. street levee and how high and what base has it?

A- I could not tell exactly how high it is because there are some

places where it is lower. Of course where the ground is lower, there the levee ~~is~~ is higher. It is built on a level. It runs from the Sacramento river clear out to 23rd or 24th str. I think.

Q How much base has it?

A It has about 40 feet base I should judge; may be 30, somewhere ^{along} there.

Q Is there a wagon road on top?

A Yes. As to the base it is only guess + work, because I do not know its width.

Q You have driven over it?

A Oh yes. I have driven over it. Two wagons can pass on the top of it.

Q From the river back to the high land at 20th street?

A It goes the other side of 20th street.

Q Does that embrace the place where you used to live?

A Yes. It is inside

Q State what occurred in that section of the country from what

are called the Fern and Mesick breaks last spring?

A. Well the Fern and Mesick breaks filled up the same as the Lovedale Break, only it was not so bad; it was further off. It filled up and came right back and came up against ^{the} Y street levee and they had to stop the Y street levee up so it stopped the sewerage of the city and the accumulation of water filled that same place up again but not so deep.

Q. How was it with the county road generally known as the river-side road; what effect did it have on that?

A. The travel on that was was all stopped. The water got all over it so they could not travel on it.

Mr. Catlin - The river side road is the property of a corporation known as the Riverside Company is it not?

A. Yes.

Mr. Cadwalader - That is also a county road; it ~~has~~ always been a county road.

The witness- The ranchers all have a right to travel on it free

Mr Catlin- They take toll there do they not?

A- No they all go free

Q- Who?

A- The people who live down there all have a right to go over the road free, but as for pleasure seekers or drivers or anything like that, they all pay. It is a toll road, but the people below there on the settlements travel free over it.

Mr Cadwalader Was that obstructed during the Lovedale break?

A- Yes.

Q- Did the water run right across it?

A- It ran right across it

Q- Did it ~~break it~~ tear it up?

A- No it did not tear it up but it filled it with sand and sediment so it left the road in good shape afterwards. There was a great deal of dirt that was hauled over there. When the water came down the current carried it and it was settled

in there and hauled off. It was filled up with it but a great deal of it was hauled off to make this Y street levee.

Q Do you know what is called the Drainage Canal of Sacramento?

A Yes.

Q Do you know where it starts and where it ends?

A Yes.

Q Where?

A It starts right here at this city.

Q At what place?

A It starts from 6th str. I think

Q 6th and what other street?

A 6th and R.

Q And then it runs where?

A Then it runs right down through the Swamp-lands; from here right down all the through clear to Snodgrass slough. It has filled up below now a great deal.

Q Which side of the city Cemetery does it run?

A It runs on the west side

Q And then how does it run?

A Then it bears south east and goes down in through into Putter slough

Q Does it cross the Riverside road?

A It crosses the Riverside road just south of the Cemetery and runs into the Sutterville lake and then further goes down through the bottom and crosses ~~the~~ the road again this side of Freeport and then goes into the basin below there.

Q How wide and how deep is that canal?

A I do not know. Wherever the high ground is the cuts are a great deal deeper than at other places in the low ground. Of course they run so as to have a fall on a level, and in some places it is a great deal deeper than others.

Q Is that the drain relied on to drain the city?

A Yes.

Q Do all the sewers run into it?

A Yes. That is the calculation.

Q Has that been so for a number of years?

A Yes.

Q What effect did the water from the Lovedale break, and the water from the Peru and the Mesic breaks, have

upon that Drainage Canal?

A- Well the Lovedale break filled the Canal up with sand. It would be cleaned out again. Those other breaks down below I do not think had the same effect. They filled ~~the~~ it up some but not to so great an extent.

2. They filled it with what? with water?

A- Yes, with water but not with sand. I do not think the break below there threw much sand into it, because the Mexic Break comes into the lake

Mr. Cathin - What lake?

A- Lutter Lake or Sutterville Lake. The water comes right down there and runs right into the Lake; consequently it did not hurt the Canal.

Mr. Cadwalader - Now do you know any thing about there being a system to pump this city at this Spring, and, if so, what kind of machinery was used and where was the water pumped to?

A- I can not say as I know what

kind of machinery was used, I saw the pumps at work but I was not right close to them. I know that they pumped the water over the Y street levee from out of that basin below R. street. The water cumulated, the rain water and sewerage water cumulated and backed up into the city as far as W. street and those pumps were put in there so as to pump the water out.

Q How many pumps were running there?

A There was two running when I saw it

Q What was their capacity?

A I do not know it was immense. It threw a big ^{volume} ~~flood~~ of water. I never heard anyone say what it was, I did not make any calculation myself.

Q How many engines did you see there?

A I only saw one engine when I was there

Q Do you not recollect that

they were running six pumps with two engines

A- Well I did not see that. There were only two pumps when I was there.

Q- You say some pumps there did you?

A- Yes. I was not close to them. I was in a boat and off a piece, and I saw two streams.

Q- How high was the water back on the south slope of the Y street levee?

A- South of it?

Q- Yes; on the south slope of the Y street levee, from these breaks; the Fern and Mesic breaks?

A- Well I do not know. I did not measure it.

Q- Well, to the eye?

A- Well I should judge the water was up against the levee in places four or five or six feet may be.

Q- I will ask you whether you observed, or what do you say about the Sacramento river carrying water

Q- When the levees were up?

A- I said when the levee was up and all in good shape that it carried a great deal more water, because it had more force and the water ran swifter.

Q- I was speaking of scouring the river, ~~wherever~~ with reference to the force of the water cutting and carrying off the sand or a good deal of it and lowering the bed of the river. When does the principal deposit of sand occur in the water channels?

A- The principal part of it that settles in there is after the water recedes and becomes slack through the summer. Take the American river. There it fills in, it comes down in the winter and as the Sacramento strikes it knocks it right down on this shore and forms that bar every winter.

Q- Can you cross the American river now at any place between

here or between its mouth and the San Juan Grant except on the bridge?

A Oh yes. You can cross the American river above here in low water most any where. In some places there ~~was~~^{is} quick sand and when you got further up -

2. But taking everything into consideration, the width of the channel and the quick-sand -

W. C. Belcher - (Interrupting). Let him take everything into consideration without suggestion.

The witness - The American river all along up here, it is dangerous to go into, because you are liable to strike one of these places where the water has been eddying and there may be sand over it so it would look like solid sand but at the same time be this soft mud and you ~~you~~ go out of sight. It is dangerous to do it anywhere, after you get down here this side of the foot-hills

30 a

2. What has been the average fill in the American river water channel to your knowledge, or that has come under your natural observation? say you go out as far as the San Juan Grant; from the mouth of the American out.

A. I have seen it fill in right at the mouth there in ten days eight feet plum level.

But the American river will fill up and out right out again. As a general ~~thing~~ thing it fills in the winter; it fills up and then it dries out. If the sand comes it cuts it and carries it across.

Mr Hart - What is that? the American river?

A. The American river. Now I would like to explain how that is. The American river right here at the mouth will come out. When the water first comes down and it is low; it will out out. There is a bank right there now. I expect if you

1465

31(a)

go there now you will find an eight feet bank of solid sand. That will cut out and wash when the rain sets in. The Sacramento river comes down and stops the current and backs up in there and makes dead water. The American river soil coming down will accumulate and fill in right level. I have ^{been} in there in a boat and measured it, when the river was up to about the twenty foot mark and it would be level right anywhere across there where the sand and sediment had accumulated in there. As soon as the Sacramento river draws out and the American river commences flowing off again that stuff will wash out and go out and then it fills up again. It will fill up and one year it will be on this side of the river and another year it will be on the other. This season the bar is

1466



on the north side of the river, next year it will be on this side ~~again~~ and the whole country will be level with thick white sand clear above above the banks. It changes back and forward. That is the way it fills in thus with sand in that time.

Q How often does that occur?

A It is owing to the rains and the way the water acts. It does that if it is dammed back and held there by the Sacramento river. It will then fill up and as the water goes down it goes off.

Q What time in the year do you generally have the first rise in the American?

A About this time of year.

Q When do we have the next rise?

A If it comes a rain and it is all alike up north the same as it is here in two or three days time the Sacramento comes down and that checks the American up.

Q When does permanent high water occur in the American?

A As a general thing the high water does not last in the American river very long.

Q But I mean what we call the high water that comes from the melting of snows?

A That is in the Spring of the year?

Q Yes

A Well that comes along in April and May and June.

Q The river does not commence going down much until June does it; after the spring rise occurs.

A The river generally goes down so we can put our bridge in along in July.

Q Up to that time it is kept up by the melting of the snows?

A Yes. There is a good deal of water up to that time by the melting of the snows.

Mr. Cattin - State what you mean by the putting of the bridge in?

34 a

A. Every year after the water goes down we put in a bridge, a temporary bridge, across the ~~the~~ mouth of the American river.

Q. So as to go over to your ranch?

A. Yes; so as to go over to our ranch. There use to be a big travel over there but now it is filled up to the six mile house so that it is impossible for a team to go there any more.

They have not gone through there any for the last six years.

Mr. Cadwalader - I will ask you whether in early times there was not a stage ~~line~~ road down the banks of the river?

A. There use to be a stage road that came from Nicolas.

That came right down across the island.

Q. Came across the island?

A. Yes, came right straight through. It did not follow the river, which is very crooked and makes a bend away off west.

1469

25. a.

2- Where did it strike Sacramento?

A- Right at this point I am speaking of on the Baunon ranch.

2- At the Baunon plough?

A- Right at the mouth of the old River.

Mr. Catlin across what point?

A- This point that makes in from opposite the six mile house after you go out a mile and a half or two miles there is a high strip of land there which we call the island.

Mr. Cadwalader - There was a river ~~right~~ ^{road} there too was there not?

A- Yes there was a river road that came down the river all the way from Freemont and Vernon.

2- The bank of the river was timbered was it not?

A- Yes

2- Heavy oaks?

A- Well there were oaks and ~~oaks~~ ^{oaks}

2- You have not answered my question yet; what is the average fill in the American river from the mouth?

A. I answered that by telling you the river would fill up and then wash out again.

Q. I mean above; I do not mean exactly at the mouth.

A. Well up here about the Sugar factory and up through there, up where Hoboken used to be, the river has filled up within a ~~half~~ few feet of its top. The last time I saw it it looked to me like it was within four feet of the top; I have not seen it in the last two or three years.

Q. How much of a fill would there be there?

A. I should judge there would be 15 feet of fill right there.

Q. There is where the steamboats would land?

A. Yes.

Q. Taking the river channel, say from Hoboken down and for two or three miles above Hoboken, how much has it been widened in the last ten years?

1491

A. I should judge it was twice

as wide.

Q What is it occupied by
A White sand.

Q Sand like that there? (Pointing)

A Yes; sand similar to this in this bottle

Q Now what would you say in regard to the possibility of crossing that river?

A Well I say anywhere between here and Brighton it is dangerous to try it; because wherever there is dead water this mud settles in and if the sand should float over that and a man get into it with his horse he would go out of sight; consequently there don't any body ~~try~~ try it.

Q Now in regard to the movement of cattle through water charged with slickens, what kind of stuff is that to move cattle through?

A Oh you can not move them in it at all. Whenever you find cattle going into that you have to

stop them.

Q Why?

A Because they go right down and they cannot handle themselves and you have to pull them out. I have had to pull them out. Taking the last foot ^{but} to get them out.

Q How does this stuff look as it dries up?

A It is light, very light

Q Does it crack?

A Yes. It will crack in cakes and open so you can look right down. Where it is deep you can look down in some places two feet right in the cracks.

Q What effect have you noticed in the tules on the West side of the Sacramento, ~~now~~ say below the English break, from the deposits of sedimentary matter? what effect has that had ~~on~~ on the tules out here on the other side of the river.

A I have never examined that, have not taken notice

Q You have not been in there?

A No I have not been in there

2- Do you know where Nathan Combs first established a race track?

a Yes.

2 Where is that?

a That is right back of Washington on the North side of the road as you go out.

2 What kind of a race track was it?

a At the time it was made it was made on black soil

2 Was it fully equipped, with a track ~~of land~~ all round, one mile round?

a It was a regular race track. They had their stands and everything there. I have been there to races.

2 What year was that established

a I could not tell that. It was away back long ago; I should judge 1835 or somewhere away back about that time.

2 What kind of land was there out there then?

a It was black rich soil, bottom land

2 Was it capable of cultivation

H1 a

A- Yes, it was fine land.

Q- Was there any trouble from overflows?

A- I suppose they may have had overflows there, there were sloughs came out but then they never hurt; they ~~were~~ would go off.

Q- How far ~~it~~ was that back of Washington?

A- Ah, about a mile

Q- Fully a mile

A- I should judge it was about a mile.

Q- You do not know what condition that piece of land is in now do you?

A- The last time I saw it it was covered all up with this stuff; full of cotton woods and stuff. As I past along in the cars I could see it.

Q- Was there anything to be seen of the old racing fence, the fence that closed the track?

A- No I could not see any of that. That has been gone for a long time I do not think there has been ^{any} of that left for years.

1495

42. A.

Q Now I will ask you whether in the early times, up to 1860 and 1862, there were not regular roads running across through the tules.

A- Yes, I have been through on those roads in 1851. I drove, actually through there in 1851.

Q Where did the grain, raised, or in the neighborhood of Davisville and the Putah creek country, come to market?

A There used to be a great deal of grain and hay and everything, that ~~was~~ was hauled here to Sacramento, that came through that section of country.

Q Hauled right through the tules?

A Hauled right through the tules and brought right in here.

Q Has there been any time in the last ten years when that could have been done?

A- Yes, I think it could have been done this summer.

Q I am not speaking of coming on the tule road.

A - I know. I think it could have been brought through the tules this summer.

Q How much of a water way is there up through there?

A - I went through it horse-back; driving stock. I should judge it was four miles or five miles ^{there} ~~through~~ that was the natural water way before it was stopped up by the embankment of the Railroad or anything else. I have been across it in all stages of water almost.

Q Do you know in early times of that ~~trade~~ ^{crossable} being ~~possible~~ through the whole winter with teams?

A - Well in dry seasons, Mr. Cattin - The Counsel says, "through the whole winter"

A - I would say I do. The writer of 1830 I think you could cross the whole winter

Q The writer of 1830-31?

A - Yes. The winter of 1830 or Spring of 1831.

44(a)

Mr Cadwalader - Do you know what is called the Lewis Toll-road?

A - Yes

Mr. Cathin - Do I understand you to say you could cross there in the winter of 1830?

A - Yes. In the winter of 1830 I do not think there was any trouble in crossing through the whole of the winter.

Mr. Cadwalader - Do you know what is called the Lewis toll-road?

A - Yes.

Q - That starts where?

A - It starts from the river bank. The east end of it starts right above the English break and goes out within a short distance of where the old Duke house was.

Q - When was that grade constructed?

A - It has been so long ago I can not recollect

Q - How high was it when it

was first constructed?

A - It was thrown up I think about four or five feet above the level of the tules.

Q That was a winter road was it not?

A - Yes; that was a winter road
Mr Cathie - Do you state that was used all winter?

A - Yes. We used to use it all winter.

Q What year?

A - A great many years

Q Name them

A - All the years excepting the flood years.

Mr. Cadwalader - Do you know of sand being piled on that road last winter?

A - No. I have not been across it this last season.

Q What do you say about the width of the water channel of the American, of the high water channel, east of Hoboken, as you went up the stream.

A - About it being filled up?

Q Yes.

A Well, I say it has filled up pretty near to the top of the banks,

Q How much wider than originally?

A ~~It extends up say as far as two miles above Hoboken.~~

A I think just double as wide.

Q How far up did you notice that?

A It extends up say as far as two miles above Hoboken.

Q Does that embrace what is called Sullivan Island

A Yes.

Q What effect did the flood waters of each winter, say during the last 10 years, have upon these channels as to scouring ^{them} and filling them up again?

A Well, it would fill them up.

The ~~big~~ water comes come down and spread all over every where. And of course the main bulk of the water come down where it is open. It spreads out through sloughs which carry a great deal of water, which run out into the Morris Grant and come through back. And when the water is real high it comes down through John Rooneys ranch and strikes the levee in next to the Sugar Mill and comes down and strikes out through Smiths Garden. After it gets below here it spreads and goes right under the railroad bridge and strikes out and goes clear across the old Nevada road, out to where the old School house is; that is in real high water.

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Q - How far is that schoolhouse
from ^{the American} ~~here~~? A - It is two
miles I should judge.

Q - Where that water runs out over
Rooney's ranch, it strikes the base
of the Eastern levee of Sacramento,
does it not? A - Yes.

Q - How far is that from here?
A - From here up to the ^{Sugar mill} is 4 miles,
I guess.

Q - How deep have you seen the
American river water on the base
of that levee? A - I never saw
it on the base of the levee. The
levee is built up; it is higher
ground, a kind of a red ridge that
runs right along there. There
in late years there is a big slough
that makes down to

Q - Have you seen marks of the water
upon the levee? A - Yes. I
have seen marks of the water where
it came up close to the base of
the levee.

Q - How far is the base of the
levee from the American river at
that point? A - It must
be $\frac{3}{4}$ of a mile.

Q - All the intervening country was covered was it? A - Yes.

Q - Do you know where Sullivan's Island in the American river is? A - Yes.

Q - What is that? A - It is an island. There are sloughs come around it, and the water runs around it in ^{the} high water.

Q - From which shore is it made? Is it an artificial grade or is it a creation of the water?

A - I do not know how it was made. But it is closer to the north side than it is to the south. The best way to get in to it is to go in from the north side off the Horrid grant.

Q - Do you know of it being cultivated at any time? A - Yes.

Q - Do you know of it being abandoned since? A - No, I do not know anything about that. I understood he had sold it.

Q - I am requested to ask you this question: How far have you noticed this process of scouring and refilling of this sand in the American

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River Channel? A - I have noticed it for the last 7 or 8 years more particularly.

Q. In what places? A. Right near to the mouth of the river more than anywhere else.

Q. Where else? A. That was the most-particular place, because that is where the water comes out, and I had business right there and paid more attention to it there than anywhere else. It is a place that shows plainer than anywhere else.

Q. Do you know the quantity of land lying between the Sacramento levee and the American River, from the Sugar But Factory down to the Sacramento River? A - No, I do not.

Q. Can you form any idea of how much it is? A - Lying on the outside?

Q. Yes. A - On the outside of the levee?

Q. Yes. A - I should judge there were 2000 or 3000 acres.

Q. How much land on the north side is subject, or has been subject,

within the last ten years, to inundation from this heavy sediment-carrying water of the American on the north side of the river? A - All the land over there used to overflow before there was any sediment-came there. But all this land that overflows this sediment goes on.

Q. That is what I want to get at; the land that is overflowed so as to be damaged by this sediment, lying on the north side of the river? A. Well, I should judge there were 40,000 acres.

Q. You would think there was as much as that? A. Yes. About two townships or more.

Q. How many miles of roads, traveled roads, old traveled roads, would be either injured or rendered impassable by these sediment-carrying waters?

A. I do not know. The roads, whenever the waters get high, even if they did not have sediment in them, would be subject to overflow just the same. Of course the roads, when this sediment comes in, are very nasty and miry until it settles.

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But those roads over there, when the water was free from this sediment, used to be stopped in the winter, in time of high water, so you could not travel over them anyhow.

Q - Those roads have all been raised have they not? A - Portions of them have. The roads from the bridge out there have. But the old roads that are up the river and cross the Island are just natural roads and there has not been anything done to them. Of course, on the old roads up the river there have been bridges put in, and such things, to use in the summer after the water goes off.

Q - Up to up to 1862 there were no railroads were there? A - No. Not of much of any account.

Q - Stages regularly traveled those roads, did they not?

A - Well, there were times when the stages had to stop, when there were big floods.

Q - I mean up to 1862?

A - Across the American river here in real high water sometimes the

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stages would be stopped for a day or two at a time.

Q - But still, with the exception of those short delays, stages ran the year round, did they?

A - Catlin - The object to that question is leading.

A - The stages always made their regular trips, only for a few days at a time when there were big floods and the waters came down from above.

Q - Where did the stages run to?

A - All through the mines: Nevada City, Grass Valley, and Rough and Ready.

Q - Marysville? A - Marysville, And everywhere else.

Q - Shasta? A - Yes.

Q - And Auburn? A - Yes, they ran all through the mining towns.

Q - Where did they run from?

here? - A - Yes. Sacramento.

Q - Could they run in that way since 1862 - in the same way that they did before 1862 - over those same roads. A - Yes. I do not think

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there would be much difference, I do not think it would make much difference.

Q - Would not there have been more delays here, in crossing the Americans? Mr. Catlin - He objects to the question as leading.

The Court - The question is certainly leading.

A - No. They built up the roads here so that they have not been detained much; only for a short-time.

Q - You say they have built them up? A - Yes. They have built the roads up so they could get out from here. There have only been a few days at a time but I could get out.

Q - And without those grades, how would it be? A - Without those grades they could not get out at all.

Q - Could they go up the Sacramento at all? A - Not in high water.

Q - How months in the year would there be that that road has been impassable?

Mr. Catlin - Which road are you

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speaking of now?

A - The road up the river. That has been worse. He used to go up the river a great deal more than we do at the present time. The bed of the river has filled up so that it has not carrying capacity for the water. It has not the same channel or amount of room to carry the water off; consequently it takes from the banks a great deal of debris during the winter season of the year, for which reason it is very and is impassable.

Q - I mean ^{the ridge} across ^{the} Island?

A - The basin fills up and you can only go there in the Fall of the year.

Q - What do you call the Fall?

A - The Fall of the year.

Q - How much of the Fall?

A - We always used to commence going across there in the middle of August and could go through. Now we cannot go through until November. The water and this mud has settled in there and so it is impassable. I was over there yesterday and had a notion to tackle it; but Dave Ford and his wife told me I

had better not, that a man had to
get off his horse and lead him, who
tried it the day before. So I turned
back

Cross Examination of - C. W. Clarke

Mr. Catlin - The quantity of this
land that you own on the north
side of the river, you say, is about
10,000 acres? A - Yes. Close to 10,000.

Q - Is it all swamp land?

A - Yes. It is all swamp land.

Q - Every acre of it? A - Yes.

Q - The title to it was obtained
from the State, as swamp land?

A - Yes.

Q - When did you purchase it?

A - I purchased it from the owners.

Q - When? A - 1858. In that

year I commenced and I have been
purchasing for a long time after
that. It was a good many years before
I got the whole of it together. I bought
out the old settlers who were in there,
who had to get out.

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Q - You say you commenced buying it in 1858? A - Yes.

Q - And in the course of how many years was it that you acquired the whole 10000 acres? A - I think about 5 or 6 years.

Q - Does your land extend all the way to the Sacramento river front? A - Yes.

Q - All the way to the Sacramento river? A - Yes. To the Sacramento river. There is a great deal of my land fronts on the Sacramento river.

Q - What? A - I say, there is a great deal of my land that fronts on the Sacramento river; right from the mouth of the American river up for several miles.

Q - But does your land extend full length right up to the river front? A - No.

Q - You have some land that extends clear to the river front? A - Yes.

Q - And some that extends eastward to the boundary ^{of the} Rancho del Paso? A - Yes. It connects.

Q - It is all swamp land, is it not? A - Yes. Every bit of it.

2 - From the lower boundary of the Rancho del Paso on the American river clear to its northern boundary. A - To the northern boundary of my land.

2 - To the northern boundary of the Rancho del Paso? A - No. There is government land that lies west of the northern boundary. There is considerable government land in that.

2 - How much government land is there? Is there more than two sections?

A - No. I do think there is more than two sections. There might be a little over.

Mr Cadwalader - I wish you would state before you get through, what has been the assessment for reclamation purposes per acre, on land on the Sacramento river, say from the mouth of the American, running down.

A - On this land up here?

2 - No. Commencing at the mouth of the American and running down as far as you know anything about the land? A - I could not do that. I only know, where I owned land.

Mr Callin - What purpose did you

buy that land for? A - I bought it for grazing cattle.

Q - Your business for a great many years has mainly been raising large amounts of cattle? A - Yes. We use this for a cattle market.

Q - You bought a good deal of land for pasturage purely? A - Yes.

Q - Was not a good deal of this land tule land? A - Over there?

Q - Your land over the river. I am not speaking now of your land on the Sacramento. A - When I first knew that land there was a great deal of tule land in there. And there were portions of it tule land when I got it.

Q - There are portions of it tule land yet, are there not? A - There is a small portion of it, a very small portion of it.

Q - What has caused it to change its character from tule land, which it formerly was, to a different kind of land now? A - It was very heavily stocked and was eaten out a great deal. And then after the tules stopped growing there was a kind of smartweed that grew in there, that was better

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feed than tulle, that fattened cattle
equal to alfalfa. I have seen it grow
two tons to an acre and more.

Q - Is not that land deeply flooded
every winter when we have high floods?
all your land there? A - It is
flooded now more than it ever
was.

Q That was not the question I
asked you. I asked you whether
it was not deeply flooded at all
times of high water? A - In such
high water, it always has been. I
will correct myself; there is a portion
upon that island, and where those
cattle were, I speak of, that the water
never was over until 1878.

Q How large a portion?

A - There are ridges upon that
island of 100 acres in a place,
and there is one mound there
of about 30 acres, there never
had been water over before.

Q What kind of a mound?

A - It is a ridge, a very high
ridge in there; and that is
where those cattle were that I
spoke of.

Q How many acres are there

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of that island on your land?

A - There is about 3000 acres, that we own.

Q - What makes it an island?

A - It is more of a peninsula. The water goes around Fisher man's Lake and makes a ^{big bar} ~~break~~ on that side; then there is a channel that runs up west of the Marysville road and runs up to Nicolais. It is a point that makes up from Brown's Valley; they call it an island.

Q - Where is Fisherman's Lake?

A - Fisherman's Lake lies right on the West side of the Sacramento river, on the East of this island I speak of.

Q - Is it on this track of yours? A - Yes. It runs right thro' it, and it is an outlet for this ^{upper} tule that comes thro', that forms this island.

Q - Was that island there originally, when you first knew the land at an early day?

A - Yes.

Q - It was there as far back

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as 1849 and 1850, was it not?

A. Yes. It has always been there, I suppose.

Q. Did you ever attempt any grain raising upon any portion of this land? A. I did not, but I saw other parties that did. I have seen grain on it.

Q. I ask you whether you have ever cultivated any grain there? A. No, I never did.

Yes! I have cultivated some.

Q. How much? A. Just a few acres of the highest ground on this side; 40 or 50 acres, I suppose.

Q. Now do you say you cannot pasture more than 100 head of cattle on that land? A. No. I say we used to take in from 3000 to 4000 head of cattle, and now we take in about that many hundred. That is about what we pasture at the present time, or did this last season.

Q. But could you not

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pasture more than that, if
you wanted to? A - No; not
and do them justice.

2. Why not? A - Because
there is not the grass there to
support them. The grass is not
there; there is the stuff I was
telling you about, all through
there.

2. Does that stuff cover the
whole of this 10,000 acres?

A - Yes.

2. How deep? A - O, no!
Not the whole of it.

2. How which do you mean?
the whole of it or part of it?

A - The highest part of it
there is good; it is lighter;
it is not so thick there.

2. How much of your 10,000
acres is covered by this sedi-
ment called slickens?

A - You might say the whole
of it is. But it is not the
same thickness. Where the
water runs on it the longest
it is the deepest. Where it comes
over the island, up there the sedi-
ment is thinner.

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-ment- left in there is not more than $1\frac{1}{2}$ or 2 inches deep. It has not hurt so much there. On that Island is where we get our principal beef, ~~there~~, at this time.

Where the current comes through there that-kind of washes this stuff off.

Q - Is there a slough on the East-side of the island? A - Yes. There is a low place, a water way, on the east side.

Q - In periods of high floods does water come in there from Bear river?

A - I do not think it does. I think Bear river is flooded, I think Bear river is leaved.

Q - Did it before Bear river was leaved? A - No. Bear river might have come in there at one time; in 1862. Bear river may have come in there, but since that time it has not.

Q - It may have come in in 1862?

A - Yes.

Q - Do you not know whether it did or not? A - I am under the impression it did in 1862.

Q - Then I understand you to say

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that - in 1862, Bear river assisted
in covering this land with water?

A - Yes, I think it did.

Q - Did not the Feather river
cover it for a short period, too?

A -

Q - Did not the Sacramento river
come in? A - Yes, the Sacramento
river came in.

Q - You have seen the American
river run clear up to Fremont, have
you not? A - Yes, I met the
American river once, and I will
tell you how I did it.

Q - You need not. I want to know
the fact? A - Well, the water
came up through there.

Q - Where was the Sacramento river
then? A - The Sacramento was
lower then, when the American
came through.

Q - Where did the American
come? A - It came up through
this tule, clear up to Spanish
Ranch.

Q - Clear up through your land?
A - Yes. That was before I owned

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the land.

Q - The same land? A - Yes, the same land; And the American river is the one I met; and I know it was the American river, because I followed it down.

Q - When was that? A - I think it was about 1862.

Q - It was in December 1861, probably or in January 1862. Was there a spot of your land out of water at that flood? and if so, how large a spot? A - When?

Q - In 1862. A - In 1862, I did not own it.

Q - Well, the land that you now call your land, if it was there right at the same spot?

A - Yes, it was there.

Q - Now you knew all about it. Was there any of that out of water at that time? A - I do not know, only what I was told.

Q - I thought you said you were all over there in the flood of 1862. A - So! I did not say anything of the kind and you know I did not.

Q - Probably I may have misun-
derstood you? A - Well you did;
and that's what the matter.

Q - Now where were you in 1862?

A - I was in California.

Q - Where in California?

A - I was in different parts of
it. I was living up on this side
of Marysville.

Q - Where were you living this
side of Marysville in 1862?

A - Right - on Dry Creek.

Q - You were not in this vicinity,
then? A - Yes. I was in this
vicinity every week or two. I was
in Sacramento every week or month
in the year and I was here.

Q - Were you in Sacramento at the
time it was flooded in Decem-
ber in 1861? A - Yes.

Q - How deep was the water in the
city? A - It was deep enough for
a fellow to swim if he wanted to.

Q - But a man can swim in water
that is one hundred feet deep
and also in water that is two
feet deep. How deep was the water
in this city?

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A - It was in the Golden Eagle Hotel; it was up in the sitting room of the Golden Eagle Hotel. 2 or 3 feet deep.

Q - How was it in January in 1862? or where were you then? A - I do not know exactly whether I was in here in January or not.

Q - You were living then on Dry Creek?

A - Yes. I was living about 7 miles this side of Marysville. But I owned a ranch up here that we called the Spanish ranch, and that is where I was going at the time I met this water. I am telling you about. And I would like to explain to you about that water.

Mr. Cadwalader - I would like you to allow the witness to state that when the water was in the Golden Eagle, the hotel was on the low grade. Witness - Yes. The grade has been raised 9 feet since the time I speak of.

Mr. Callin - You were living at this place on Dry Creek, 7 miles this side of Marysville, with your family, were you not? A - Yes.

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Q - How long a time did you reside there? A - I was there 4 or 5 years off and on.

Q - During what years? A - Between

A. I was there

Q - Were you not permanently there a resident with your family?

A - No. My family would be there when I would go there. At busy times when we marketing cattle my family would be here in the city. They would merely come up there and stay on the ranch until I got ready to come down, and then we would be here on 7th Street, between I and J Street.

Q - Then you did not undertake to describe the effect of 1861-2 flood on the American and Sacramento here, on your direct examination? Did you or did you not? A - I do not know as I did.

Q - You were asked several times to describe the American river, on the height of its banks. You owned the land on the American river, on the north side, commencing at a point about 10 miles above

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here and extending to a point about
10 miles still further up, do you not?
A - No! No! You have got that
wrong.

Q - You stated you owned the
whole of the San Juan grant front-
ing on the river, did you not?
A - Yes.

Q - That is about 10 miles in length
is it not? A - Yes, I think it
is about that, and maybe more.

Q - Then I have it right - have I
not? A - I thought you were

speaking of the Sacramento river.

Q - I say the San Juan grant. You
own the opposite bank of the river
all the way up to about opposite
Folsom, do you not? A - Yes, just
about opposite Folsom.

Q - Now then, how high are the banks
of the American river at the pres-
ent time on that frontage that
you own? A - Along up there?

Q - Yes. A - There are some places
there with high banks; where the
bank was I should judge was 50
or 60 feet high.

Q - Is it not 150 feet high in some

places? A - No.

Q - Nearly perpendicular? A - No, I think not.

Mr. Hart - Where is that point you are speaking of? A - That is up in the foot-hills. There is a bluff there right below the orchard, which is the highest place I know of. That bluff is just the same there now as it was when I first went there. The water runs very swiftly there and keeps it cut out.

Q - The river is not filled up there much, is it? A - It is filled up on the opposite side.

Q - The channel was always running as it now does, was it not? A - No I think not.

Q - Was it not running against this steep bluff? A - It ran over on the other side I think, from the appearance of things.

Q - How much of what we call bottom land, is there on the San Juan grant?

A - I suppose there is 125 acres, that is, of land that is fit to cultivate.

Q - Of what you call bottom land?

A - There is a good deal more than that - if you call the cobble stones bottom land. There is a big bar there; and there is every little land there

Q - What makes those cobble stones there? A - The wash of the water; the current from the American river.

Q - Has there been any mining there? A - Yes. There is mining all along there.

Q - Mining all along on these bars in front of the San Juan grant?

A - Yes. On most of them yet.

Q - Was not the mining there mostly done between 1850 and 1860? A - Well, they are doing it there today.

Q - Still doing it? A - Yes.

Q - On Mississippi bar? A - Yes.

Q - On Sacramento bar? A - Yes.

And right on this lower bar I am speaking about.

Q - What lower bar? A - The lowest bar of all.

Q ^{name of the lower} What is the bar? A - I do not know what they call it. It is just below there

Q - Is there on Sailor's bar? A - Yes.

Q - These bottom lands in the San Juan grant - have been mostly mined off by miners, have they not?

A - No. Not what I call the bottom lands. I call those benches, 'So known up there where they are mining that land is a gravelly land; it has been formed and made by the action of the water and the soil is very poor.

Q - You know where Mississippi Bar?

A - Yes.

Q - Is not that what you call a piece of bottom land? A - No. I would not call that bottom land. It is a red land or gravel. When you asked me about bottom lands I thought you meant the lower ^{bar} ~~land~~, there, where there was alfalfa growing.

Q - Where on your ranch is that?

A - That is just adjoining the Torrio grant; that first bottom. And then where the orchard is. That is what I call bottom land. Those other lands, I call bars.

Q - Do you say there is an average

fill in the channel of that river
between here and Hoboken of 15 feet.
A - Yes, I should judge about that.
Q - In the channel? A - Yes. From
the appearance now and the appear-
ance the first time I saw it.

Q - When have you been on the bank
of the river on this side, from
where Hoboken was, either up or
down a mile or two? When was
the last time? A - About three
years ago.

Q - Whose land were you on then?
A - I was on the land of the Sugar
Beet Factory, on the land that
John Rooney and on the land
right above his.

Q - Whose land was it that you
were on right above the land of
Rooney? A - I do not know exactly
whose land it was; I went over it
though.

Q - Did you go any higher up?
A - No.

Q - Do you know from personal
knowledge what the fill of the
river is, say in front of Eli Wells'
land? do you know where that is?

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A - No. Where is it?

Q - It is right above Rooney's a little way. A - That may have been the land I was on.

Q - Do you not know as a matter of fact that the old Sutter race constructed there by General Sutter for his saw mill is still visible there, scarcely changed, right on the bank of the river. A - It was there in 1850. When I first came in I took notice of that race.

Q - When was the last time you noticed it? A - I do not know as I have taken notice of that since the railroad has been running.

Q - Since when? A - Since the railroad was started.

Q - You mean the Sacramento Valley Railroad? A - Yes.

Q - That was started in 1855, was it not? A - I believe it was.

Q - Since the Sacramento Valley Railroad was started in 1855, have you ever been on or close to the bank of the river this side?

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A - Yes.

Q - When? A - I was there three years ago.

Q - I say, other than the time you have mentioned? A - O, I have been several times on Rooney's place. I was on Rooney's place last year and year before last.

Q - Have you ever been on Bay's land? A - I have been on Bay's land lots of times.

Q - On the bank of the river?

A - Yes.

Q - Since 1855? A - So. I think I have too once or twice.

Q - You have no personal acquaintance with the banks of the river above Rooney's, on the ranch adjoining it above, since about 1855?

A - So. Not from there until you go on above.

Q - Above where? A - Over on the other side. I have been over on the north side there; I have been over on the Morris grant and above there and on the Sullivan place. But on this side I have not been up along there.

Q - I understand you to say you could cross the tule at all times in the winter of 1850. Do you mean 49-50 or 50-51? A - The winter of 1850. For instance, if winter commences in January I mean the next fall.

Q - You mean you could cross it in the fall of 1850? A - Yes.

Q - I understood you to say you could cross it in the winter of 1850? A - Yes. I went across there in the winter time.

Q - What month in the winter of 1850? A - I went through there in the spring of 1851.

Q - Was not this city flooded in the spring of 1850 so the water came up over K. Street? A - Yes, it was. But I am speaking now of the fall of 1850 and the spring of 1851. I know exactly what I am talking about.

Q - Was it not also flooded here in 1851? A - No, it might have been in the winter of 49-50.

Q - I am talking about 50-51? A - No. 1851 was dry. We only had about 4 inches of water that winter.

In the Fall of 1850 and Spring 1851
we had but 4 inches of water.

Q - But 4 inches of rainfall?

A - Yes. That is all the gauge
here showed.

Q - In the winter of 50-51?

A - Yes. The Spring of 1851.

Q - I ask you when you first found
a levee upon the bank of the
Sacramento river? You say you loaned
some money on a piece of land
below here and it was leveed.

How early was that? A - I think
that was in 1860.

Q - How long had that levee been
there? A - I do not know how
long it had been there. In 1861-2
it bursted.

Q - When was the first levee built
around this city? A - I do not
know when that was.

Q - Cannot you tell pretty near?

A - I think there was a levee built
around here in 1852.

Q - Why did they build a levee here
in 1852? A - To keep the water
off I suppose.

Q - Had there been any water over the

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city before that? A - Yes.

Q - At what time? A - I guess in 1849 there had been considerable. In 1852 there was plenty of water in here; the levee bursted.

Q - There were levees around the city as early as 1852? A - Yes.

Q - They were broken and the city was flooded in ^{November} ~~December~~ 1852, was it not? A - Yes.

Q - How deep was the water in the city then? A - I went up to go across it; it bursted right in where the ^{grave yard} ~~Helvetia~~ ~~garage~~ was.

Q - State how deep the water was in the city then? A - Just - give me time and I will. I went up there but could not get across, the water ran so swiftly. A flood came up K street, which had been graded and I went up to the ford and swam my horse across. I had a band of cattle and took them up there and swam them across the slough. The water was knee deep in K street at that time. I did not come any farther down in the city; The water burst in but it had not then got-

any farther down.

Q. Was not this country flooded over in the winter of '67-'68?

A - Yes. All over the country. But it was not as high as it was in 1878 and 1881. It was not near so high, but there was a great deal more water fell that winter I think.

Q. How was it in 1872?

A - In 1872 I think the water came over the banks.

Q. Banks of what? A. Of the rivers.

Q. What rivers? the Sacramento and American? A - Yes.

Q. Flowed over the whole country did it not? A - I do not know that it did. It was over this country of mine in here.

Q. In 1855 and along there where you acquainted with the land around the mouth of the Sacramento - the islands - ? A - I was only acquainted with them by traveling down on the steamboats. I used to travel down to San Francisco a good deal, and backward and forward.

Q. Were those lands cultivated then,

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those islands? A - They were cultivated on the borders along the river. I saw it in passing along.

Q - Could you see them in places?

A - Yes. I saw people at work there cultivating, putting in crops, in places.

Q -

A -

Q - Those islands are lower in the center are they not? A - Yes.

Q - And there is a little rim high up around the boundaries of the river? A - Yes. Where the water passes it raises the land. The basin is a good deal lower as you go back; it falls right back from the river bank.

Q - Then when the water comes up over the river bank it fills in the whole island and makes a lake of it does it not? A - It fills up until it is on a level.

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Q. Covers the whole island, does it not?

A. Yes. That depends on the height of the water, though.

Q. Is not that the case with Grand Island?

A. Pretty much all the islands, I think.

Q. That is the case with Brauman Island and Andrus Island, Tyler Island, Grand Island, and Sherman Island, ^{A - Yes}

Q. All the islands?

A. Yes.

Q. Before 1862, before the big flood of 1862, when there was high water in the rivers, did not those islands go under water?

A. Yes.

Q. Regularly, every time? A. Yes.

Q. You put in 2 or 3 crops on Grand Island, you say. The first one was when? In 1867, I think you say.

A. It was about that time I think.

Q. Was that the earliest?

A. No. I put one in before that. in 1866 I think.

Q. Each of these seasons when you put in these crops the island was leveed all the way round, was it not? A. Yes.

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Q And the levees broke each time and covered your land with water, did they not? A - Yes.

Q What is the way you lost your crop?

A - Yes.

Q How much land have you on the San Juan grant? how many acres? A - I think we had

about 12000 acres there. We have been selling off it considerably.

Q Out of that 12000 acres how many acres has been damaged?

that comprises about 10 miles of front on that river, does it not?

A - Yes.

Q Perhaps more than that the way the river runs? A - Yes.

I think it would be more than that, if you follow the meandering of the river.

Q It is about 10 miles in a straight line? A - Very near it.

Q So if you follow the meandering of the river it would be probably 2 or 3 miles more?

A - Yes. Maybe 12 or 13 miles in all.

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Q Now out of that 12000 acres
how much has been damaged
by deposits of debris coming down
the river? A - I do not
think it has been damaged at
all.

Mr. Hart. Which 12000 acres is
this?

Mr. Catlin. On the San Juan grant.
Mr. Cadwalader. We do not make
any claim as to that at all.

Mr. Hart. Do you mean by deposits
on the land or in the river?

Mr. Catlin. By deposits coming
down.

Mr. Cadwalader. That is red land
and we make no claim as to that.

Mr. Catlin. This Sullivan's Island
how is that formed?

A - There is a slough runs
around and it is formed by that.
The slough makes in on the north
side of it and sort of shuts it off
when the water on the north side
is high, and they call it an island.

Q Was it covered with water every
time the American river was high,
between 1830 and 1860?

A - I think so, but I do not know. I never was on that island when the water was high. I never was on the island but once or twice and that was at a time when the water was low; so I do not know much about it.

Q How do you estimate the amount of land lying between the north American levee and the Sugar Beet Factory, all the way down? You say it is about 3000 acres; have you ever measured it? A - No.

I just counted it up in my head, beginning at Smith's Gardens.

Q How near does the American river come to the levee, up at Smith's Gardens?

A - Smith's Gardens are outside of the levee.

Mr. Cadwalader. The object, that there is no connection between the question that the witness is about answering and the question before asked and not yet answered in full.

The Court. I suppose the first question is withdrawn.

Mr. Cathen. Yes, sir.

Mr. Cadwalader. The difficulty is that, ~~to~~ persons who are not fami-

lar with those localities it might appear that they were immediately contiguous.

Mr. Gatlin. That is what I am going to prove — that they are immediately contiguous — and I will prove it by this witness.

How near does the north levee run to the bank of the American river at Smith's Gardens? That is this side of the Sugar Factory, is it not? A - Yes.

Q Now answer the question.

A. How near? The levee, in some parts there is half a mile from the river.

Q How near is it at the nearest part? A - Across the land of Smith it must be a quarter of a mile at the upper end, as far as I have been on Smith's place. I have driven through there in my buggy.

Q Smith's Gardens altogether only contain about 50 acres of land?

A. — Well, there is other land in there besides his.

Q I am speaking of the land where Smith's Gardens are. Those Gardens front on the American river.

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A - Yes, they do. But right from where the old house of Smith is there you may go right due south and I will bet you that you won't strike the levee in a quarter of a mile.

Q. Does not the levee cross a portion of that 50 acres?

A. Go through the 50 acres? I do not know how much he has there.

Q. Well, suppose he has 50 acres on the bank of the American river, does not the levee cross over a portion of that 50 acres? A - I should judge it crossed over the southern portion of it.

Q. How near is the north levee, as you go to the old bed of the American river, as it goes out of the city here?

A. At what point?

Q. Say opposite Tenth street and Twelfth street and along there. Say in a line from the Capitol, which Eleventh street runs through the centre of?

A - Well, it is quite a distance. It must be over half a mile: three-quarters of a mile.

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Q Let me call your attention to one thing. I want to see if you are not mistaken about that 3000 acres. You see this map. Here is A street. The levee runs out on A street, does it not?
A - Yes.

Q Then it approaches very near the American river, does it not?

A - Yes. Up by Rabbel's Linnery it runs close to it.

Q That is the reason I ask you if you are not mistaken. A - Well, in some places, while at other points it is near it. At one point it runs right through it and they had to put in a wing-dam to keep it from washing away.

Q Now, how do you say there are 3000 acres ^{lying between the American river and the levee?} in there? A - Because I think there is that much there.

Q From that bend that comes in there? do you mean that land in there?

A - Yes. That land is all in there and there is 2000 acres; that's what's the matter. There must be 500 China men gardening right over on this piece of land.

Mr. Hart On what piece of land?

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A - Along the levee from here to the American river.

Mr. Catlin. On what kind of land are those 500 Chinamen working and what are they doing there?

A - I do not know what kind of land it is, but they are gardening there. I was along there 2 or 3 years ago and there were just droves of them.

Q. Do you mean 500, when you say there were 500 Chinamen working there?

A - There were 500 two or three years ago living over in that vicinity.

Q. Do you mean to say there were 500 Chinamen raising vegetables there? A - Some were raising vegetables, some were washing and some were doing one thing and another.

Q. Where? A - ~~Right~~ ^{Levee} at the north

Q. In the lagoon or lake called China slough? A - Yes. A portion of them.

Q. Is not that China slough a slough which was there at an early day?

A - There were China houses all the way up from the mouth of the old river to the new river; a string of houses that were all filled with

Chinamen.

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Q. Was not that land lying between the levee and the river, which you have described here, always, or at an early day, a mere swamp?

A. No, I think not.

Q. Well, did it not come pretty near being a swamp? A. Well, there were mighty fine pear trees, apple trees and all that kind of thing growing there.

Q. Over the whole of it? A. Over a great part of it. Hubbard's garden out there is one of the oldest orchards I know of. And there is a man down there by the name of Johnson, who has pear trees there which are 23 years old.

Mr. Badwalader. Hubbard's place, out here?

A. Yes. Hubbard's garden is one of the oldest gardens I know of in the country. And there were a good many other orchards out there besides that. Old man Scott has one out in there.

Mr. Cathin. What effect has the construction of the levee, with

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leaving them out, had upon those gardens.
 A They kept up a levee of their own
 for a good while, until this sand filled
 up and ran over the top of it.

Q. What effect did the construction
 of the north levee have upon those
 gardens, lying on the outside that
 you speak of? A - It con-
 fined the water and threw it off the
 other way.

Q. Did it not cause sediment
 to lodge over this land? A - Yes.
 It confined the water and, the
 bed of the river filling up, the sand
 went over and covered this land
 up a good deal.

Q. Were not these lands covered
 up by the flood of 1862 a great deal?

A - Some. Not so bad.

Q. Were not Smith's Gardens covered
 up? A - I think Smith's
 garden was hurt a great deal in
 1862.

Q. Were not these other gardens hurt a
 great deal? A - They were hurt
 but not so bad.

Q. Not so bad as Smith's Gardens?

A - No. On this land which I call

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Hubbards garden they had a big cherry orchard which was killed out year before last, the finest kind of an orchard

Q. Where? A - At Hubbards garden.

Q. When? A - Two years ago.

Q. That orchard was killed out then?

A - Yes. The trees were killed out. That was a very fine cherry orchard which was set out there.

Q. How large a cherry orchard was that? A - There were several acres of it.

Q. Now, where is this 40000 acres of land on the north side? A - How is that?

Q. You said that on the north side of the American river there were 40000 acres of land injured. That includes your 10000 acres does it not? A - Yes.

And this whole country over here that lies in this basin that is covered with this tule, from here to Nicholas and from there to the Sacramento river.

Q. That is the point; where the 40000 acres is? A - There is

more than 40000. There is 50000 I guess.

Q. Is not that a tule basin?

A - Yes. That is what I said: that

all the bad there where this stuff comes in and the muddy water comes in and settles, it has an effect on.

Q Have not the Sacramento and Feather rivers also contributed to that injury?

A - Yes.

Q Very largely, have they not?

A - At times.

Q Did you ever notice any sediment along there from the Feather river? A - I do not know as I have. I suppose there has been some in there though.

Q What? A - I say I suppose there is.

Q You have been over there and had a chance to see it?

A - I know; but I say in 1862, the Feather River did come in above there. But I think since then they have kept their levees up pretty well along the Feather river.

Q - You know it do you not?

A - I have never heard of their being broken.

Q - I do not want any hearsay, but only what you know. Now what is the

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highest-value that this land has
been assessed at since you owned
it? A - This land over here?

Q - Yes. This 10000 acres.

A - About \$5 an acre.

Q - What did you pay for it
when you bought it? A - I paid
\$15 an acre for some of it.

Q - How many acres did you pay
\$15 for? A - I paid that
for about 800 acres.

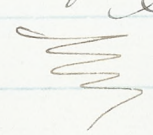
Q - How much did you buy for
five dollars an acre?

A - I bought the greater portion
of it for that. Some of it I
bought for less.

Q - What? A - Some of it.
I got for a good deal less.

Q - How much less? A - Some
of it I got for one dollar an
acre. And I will sell it for
that to-day, and a good deal
less if I can get it.

Q - When did you buy it for
one dollar an acre? Did you
locate any of it, of the State,
yourself? A - I think I did



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re-locate some of it.

Q - It had been located by other parties and they had abandoned it? A - Yes. They got washed out and left.

Q - And then you located it?

A - Yes, I re-located some of it. I think, maybe one piece.

Q - When you re-located it did you make an affidavit that it was wet and swampy and unfit for cultivation? A - I expect I did.

Q - Did you make an affidavit that every piece, and the smallest legal subdivisions were such?

A - I am not going to swear I did, for I am not certain whether I located any of it. But, of course, if I did, I think I must have done that.

Q - Do you know now whether you located any of it or not?

A - No; I am not certain I did.

Q - Then you were mistaken when you said a little while ago that you thought you did?

A - I say so now; that I think I

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did. But I am not certain enough to swear to it, and I won't do it.

Q - As a matter of fact, was not all that land, away back to 1850, wet, swampy and unfit for cultivation by reason of annual floods? Was not that its general character? A - Yes. But they spent a great deal of money for levees there, and cultivated it afterwards. I have seen fine crops of wheat growing on that land.

Q - When did they commence constructing levees to reclaim those lands? A - I think in 1855; I am not certain. I can tell by looking at the records.

Mr Caldwell - We have the engineer here who constructed those levees and he will furnish the dates.

Witness - Yes, Goddard, there was the man who engineered them. I do not know about that myself.

Mr Catlin - Were not there levees there before 1860? A - Yes. There were levees before that.

Q - How long before that? A - I do not know.

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2. Were there any as early as 1853-?

2 A - I do not think there were.

3 Q - It was all leveed when you
4 bought it, was it not?

5 A - Well, it had been leveed.

6 Q - It was leveed then, except the
7 levees were broken in places?

8 A - Yes. The levees were broken in
9 places.

10 Q - Have you expended any money
11 on it leveeing it? A - No.

12 Q - You never have attempted to
13 levee it since you owned it?

14 A - No. If I had it would have
15 sunk the city.

16 Q - What? A - If we had confin-
17 ed the water and put our levees
18 up high enough to have kept the
19 water off that land it would
20 have sunk this city.

21 Q - If you built a good strong
22 levee upon the Sacramento river
23 from here up to Fremont so as
24 to reclaim your lands it would
25 make the river so high as to flood
26 this city? A - And then from
27 there out to the high land so
28 as to keep the American river out.

Q. Am I right in that?

A. I think so - yes. That acts as a reservoir to preserve this city.

Q. Have you not observed that the construction of levees on the Sacramento river and on the islands has caused the floods to be much higher than they were before? A. Well the water would get much higher, but the levees clean out the bed of the river a great deal as long as we keep them up.

Q. I am not enquiring about that. I ask you whether you have not observed and have not frequently stated as a matter of fact that the construction of levees upon the Sacramento river and upon the islands near the mouth of the Sacramento river, caused the upper country here to overflow higher than it formerly did? A. No I have not.

Q. Well how would the construction of a levee such as you have just described, on the bank of the Sacramento, overwhelm this city.

A - Because it confines the water and there is not capacity enough in the river, ^{under} ~~between~~ the bridge there, the ^{rap} ~~road~~ ^{man} ~~way~~ to carry the water off. That place up there acts as a reservoir. When the water comes down in here it backs up and goes over this land, six or seven miles in width and ^{twenty} ~~about~~ five miles in length, and it acts as a reservoir to accumulate this water until the freshets can go off. That is the reason I say so.

Q - Do not the levees here now have some effect in backing the waters over your land and making them higher? A - I suppose they do. Of course, if you tore the levees all down the water would run off that much sooner and it would not back up there. That is natural.

Q - You spoke of a waterway across the river here 4 or 5 miles. What do you mean by a waterway?

A - When the American river comes down big, the levees here confining the water that shores it over on the other side. There is not opening

enough for the water which comes down,
in the river below. So it takes a
cut-off and goes back through our
place. Then it has an open country
back to the Lonedale break. I have
seen a current running through there
so that you could get a boat and
travel through there across to that
other break.

Q - The water of the Sacramento river
was going that way too, then, was
it not? Or where was the Sacra-
mento river then? A - The Sacra-
mento river was plumb full, and
this basin and this break were
drawing the water that way.

Q - Was not the water coming down
from Knight's Landing, this way?
A - I guess it was, ~~but~~ that break
in there was drawing a great deal
of it out.

Q - The Sacramento had entered into
the tide up in the neighborhood
of Knight's Landing and raised
over the banks, had it not?

A - No I think not. I think those
levees above there have always been
kept up in pretty good shape from

Pritchard's place up.

2 - Then according to your statement the levees have not broken in the neighborhood of Knight's Landing and let the Sacramento river into that basin? A - O Yes. The levees

all along up there broke afterwards. 2 - After when? A - In the winter of 1878.

2 - Did they not break in 1862 and 1861? A - I think they did.

Of course they broke. And when they do break, the basin over there being a great deal lower than the bank of the river, the water of the river is drawn right into the basin.

2 - And the Sacramento river rushes right into that basin?

A - Of course it does. And that was what drew this water which I spoke of in there.

2 - Where is this four miles of waterway you speak of?

A - I did not say anything of the kind. I said that after the overflow of the American river came to the bridge here and the water became high in the Sacramento river

it flowed out everywhere from the banks
on both sides. That is what I said.

Q - But in another branch of your
testimony you stated to Mr. Bad-
malach that there was a waterway
four miles long? A - Why don't
you get at the point? That is over
in the rules. If you had referred
to that, I would have known.

Q - I say, what is that waterway?

A - That is the water way
that carries the water that comes
into the Sacramento, Clear Creek
and those creeks that pass
down between here and Daw-
nell. That is prior to the
time they built the railroad
through there. I have been
through there many a time.
When the water was coming
down through there. It was
about four miles, and it
would be very near up on the
side of my house.

Q. How deep is the water in
there? A. I have seen
it is there very near up to
the top of the telegraph poles

2. Fifteen feet?

A. I should judge fourteen or fifteen feet

2. And how much of a current

A. Well, I have seen it at times when I should judge it ran from two to three miles an hour

2. Before the railroad was built? A. Yes, before the rail road was built, when it was all open. I have seen it at times when I should judge it was running two or three miles an hour; two miles at least

2. In what years?

A. In the Spring of 1851-2; that is, the fall of 1851 and the Spring of 1852, I came across. I was over there with Jerome Davis and Jerome Davis and I came over in a wagon bed

2. After that did you ever see it over there running that way? A. Yes. I have

seen it a good many times

Mr W. C. Belcher. Did you say the water was running there

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that hight in 1850-51².

A In the winter of 1851 and the Spring of 1852. It was in the Spring of 1852 in fact, be cause there was green feed in the Spring of 1852

Mr. Catlin. Where this sand is deposited on these old roads over there though the tules does not that raise the roads up and improve them as roads

A I do not know. That old road there where the track goes in, there is a good deal of sand on. But I have never been over that since the sand came in and do not know how it does operate. Of course when the sand is wet, it does not hurt the road much; but when the sand is dry it is heavy pulling

2. I want to ask you particularly about how much of your ten thousand acres of land is covered with what is called Shikens². A. I should judge about 7000 acres of it, is covered

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So it does not grow any
 feed, as near as I could tell.

Q! How deep is that ~~road~~
 area covered with it?

A Well, it runs from
 I would say from ~~the~~^{the} five feet.
 The reason I say that is, the
 fence posts which are on there
 are just covered this season
 while last year they were
 sticking out just about that
 much { indicates }

Q. How many acres are cov-
 ered five feet deep?

A I do not think very many.
 But after you get back into
 the tule it comes from five
 feet to fifteen inches of this
 shush

Q. Now do you not believe
 that the filling in of the tules,
 where the deep tules grow,
 with a foot or more, or two
 feet, of sediment, would be
 an improvement to those
 tule lands?

A. Well, it might be an im-
 provement if we could keep

the water off and get to mix
the Earth together it might be.
But still the grass does not
grow there; this water grass
does not grow on it; it is
perfectly bare

Q. You feed there is a sort
of water grass?

A. A good deal of it

Q. Does not water stand on
some of your ^{high} land?

A. It does at late years. It
did not use to.

Q. Did it not stand on some
of that land you own along
prior to the time you bought
it?

A. No, it did not
stand on any of it, only in
Fisherman's Lake

Q. Did it not stand on some
portion of your land? is there
not a slough four or five miles
long that runs down there
and forms an island of part
of your ranch?

A. Yes. Fisherman's Lake. That
is what I am talking about.
That lake is deep; there are

fresh is that all the year
round.

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Q. How long is Fisherman Lake?

A. Fisherman's Lake is two
and a half or three miles long.

Q. It is a sort of inland slough
really, is it not?

A. Yes. It is a deep cut in
there. The water passes through
then and keeps it cleaned out.
This sediment stuff, the cur-
rent carries off out of there.

Q. The current comes in then?

A. The current comes in then;
that is, during high water.

Q. During high flood?

A. Yes. When the water is
high it comes in above and
fills in. For instance, the
Sacramento River rises above
before these lakes fill, and
that forms a heavy current
through there. Then again some
times, when it fills up below
first and breaks in below,
it forms a current and comes
in, but through the other way.
Consequently it cleans it out

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both ways

Q. Where does all of this
Sediment come from which
cover this land?

A. It comes from the Sacramento
river and the American river
both. They both run in there
in the winter time

Q. Does any of it come from
Feather River? A. Well,
Feather River mixes in with
the Sacramento and of course
portions of it come in there when
it gets into the Sacramento. The
Feather river has not come
down through there for several
years.

Q. The Sediment all comes from
Feather River, does it not?

A. I think it does, from the
Feather and the Yuba and
through there

Q. There is no sediment in
the Sacramento above the
mouth of the Feather, is there?

A. No I think not. But
after the Feather and the
Sacramento come together

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We call it the Sacramento River.
That is the reason I do not
call it the Feather River

Q. Have you not contemplated
the idea of having Bear River
turned so as to discharge this
debris on this land?

A. No, never

Q. Has not that project been
contemplated by land owners
in that vicinity?

A. No, I have made the re-
mark myself that if they
just wanted to run ^{that stream} Bear River
in there, they could run it in
and fill the land up; that
they were ruined anyhow and
that they could run it in and
make the land higher. I have
made that remark many times

Q. If they could discharge ^{would fill up the basin?} Bear River in there,

A. Yes, it would raise it up high.
It is ruined now, just as much as it can be.
If it was raised up it would raise
Willows or Cottonwoods or some-
thing

Q. The water is not as deep there
now as it was formerly is it?

A. Yes. The water does not
go off at all now

Q. The water stays there the
year round? A. Yes, the
water stays there the year round

Q. Where does this water come
from that stays there the year
round? A. ~~Dryan~~ ~~mean~~
It comes from the river

Q. All those rivers you have
mentioned? A. Yes, some-
times the American river fills
up before the other rivers come
down?

Q. Some times the Feather comes
down first does it not?

A. No, the Feather river never
comes down first. The Amer-
ican river generally gets here
first

Q. Does not the Feather River
rise before the ^{American} ~~Sacramento~~ does?

A. I never knew it to come
in here

Q. But you do not mean to
say but sometimes the Feather
River rises before the American
river does, do you?

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Q. It never rises high enough to get into our tule or to get into our banks before the American river does

2. The American river does not rise with any uniformity about this time of year? you do not see it changes very much?

A. The American river has not been real high since 1878.

No! since 1867-8

2. Does it not frequently delay its period of rising until a January and sometimes as late as February?

A. Oh yes, of course. And sometimes later. Generally the most water comes down in the Spring, that is the snow water

2. State all you know about plans of turning Bear River into this tule basin, a portion of which you are the owner of?

A. How is that?

2. State what you know about plans for turning the debris which comes down Bear

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River into this basin?

A. I never heard of any place at all; I never heard one

2. Where does Bear River discharge?

A. It discharges into the Feather River just above Nicolaus

2. Does not a great deal of it discharge directly into the tules

A. No. It does not any of it come into the tules. It goes right into the Feather River just above Nicolaus. There is a basin which carries it there; when it gets a little higher the water finds its level

2. Now where is that basin? Is it through this tule country of which you are part owner?

A. Yes, there is a basin right up through there

2. So the American river is a flood once have gone there? In 1849 and 1850 it would have gone up that way would it not?

A. I think so

2. It did go that way at an early day? A. Yes. It always went that way I suppose

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2. That only shows this then :
That now when it goes up there
it carries sediment with it

A. Yes, that is it I suppose
Mr. Cadwalader. And now
turns it into a lake?

A. Well, it was always a lake;
it was always a lake when it
filled up

2. When did it get so that the
water would not come off it?

A. I do not think the water
has been off it in four years

2. Before that it would go off
every year?

A. Yes.

Mr. Catlin. Do you say it has
remained on it all the time du-
ring the last four years?

A. In the last four years, it
has not got perfectly dry

2. It has not got entirely dry?

A. No, And over there to day
I guess there is three thousand
acres of land that the water is
lying on

Mr. Cadwalader. Was that caused
by the American River?

Mr. Catlin. One moment. From

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what source does the large portion of the sediment that lies on your land come?

A. Well, I think it is about equally from the Sacramento and the American

Mr. Cadwalader Which is the muddy water

Mr. Catlin. I have not got through yet. Now I will

ask you the same question. When you get up say five miles above here where the Sacramento comes in and trips the Feather down is not the Sacramento River about as heavily charged with debris there as it is below the City

A. No

Q. How much difference is there? A. There is a

great deal of difference

Q. The difference is simply because the American ~~River~~ is discharging into and adding so much more to it below the City? A. That is the difference. The American River coming in, is very much

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Muddier, and you can see the difference

Q. Does not the Sacramento River carry very heavy loads of sediment in its high periods?

A. Yes, I think it does

Q. And it deposits them on both sides of the river, does it not?

A. Yes,

Q. Where it passes over the banks?

A. Yes

Q. And deposits them over Yolo County on the one side and on your land and that of your neighbors on this side?

A. Yes. There are places there at the head of the lake which are covered six or seven feet deep, up on Doc. Jacobs place, that came out of the Sacramento. That comes in at the upper end of this big tule

Q. The Sacramento has made deposits there six or seven feet deep?

A. Yes, Up at the upper end I think it has

Q. At the upper end of the basin?

A. At the upper end of the tule

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or basin that makes in there
 2. How far above the City?
 A It is Eight or ten miles; ten
 or twelve miles

Mr. Cadwalader Is the raising
 of the bed of the American river
 the cause of the keeping of the
 water in?

Mr. Cablin. We object to your
 going into that again

Mr. Stuart. You drew out in
 your cross-examination that
 for the last four years the wa-
 ter has stood on the lands of the
 witness and has not gone away.
 The object of the question is
 to find out why it does not
 go off that land now in the
 summer time as it formerly did
 The Court. As the witness why
 it does not run off

A. The ~~other~~ reason why it does
 not run off is because the bed
 of the Sacramento river at the
 mouth of the American River
 is filled up so that the water
 in the bed of the river is a good
 deal higher than our land

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back in the tides
 Mr. Cadwalader. I believe you
 said that the American River
 was much more highly charged
 with sediment than the Sacramento river?

A. I did not state that; but
 that is the fact

Q. You were asked about the
 water being in the Golden Eagle
 Hotel in 1862? A. Yes,

Q. That was before the hotel
 was raised to the high grade
 was it not? A. Yes. I
 think it has been raised about
 nine feet since that

Q. You say there has been no
 high water in the American
 river in the last fourteen
 years? A. Since 1867-8.

There has not been any real
 high water since that time,
 what I call high water

Q. Judge Rhodes says that in
 locating the high water on one
 occasion you spoke of it as
 being in December 1862.
 You mean December 1861, do

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Q. You not and January 1862?
That was the flood year.

A. Yes.

Q. December 1861 and January 1862?

A. Yes, that was the time.

I connected the two together.
1861 and 1862. That comes at
the fall of 1861 and the spring
of 1862.

Q. You were asked about the or-
chards on the islands. When
was Kerehev's orchard started
down there? A. I do not
know exactly. But as far back
as I can recollect Kereheval
was there and had an orchard.

Q. Right on the head of Grand
Island? A. Yes.

Q. You stated that the margins
of these islands were higher
than the center? A. Yes.

Q. The water drains from the
margins toward the center of the island?

A. Yes.

Q. How much tide was there
down in Steamboat Hough and
Old River?

A. About seven feet I think.

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2. Do you know how much that is decreased now?

A. I don't know

Mr. Catlin. Do you say the tide was seven feet high there?

A. The tide would rise and fall there about seven feet.

2. Seven feet where?

A. Down in the vicinity of Grand Island

2. How high did it rise in the Bay of San Francisco?

A. Well, I should think it raises that much

2. Seven feet down there?

A. I should think so

2. And you think it would rise that high at the head of Grand Island?

A. It will rise just as high I think. It may rise higher, for the back water coming up and the river coming down, meeting, may stack the water up. I do not know however what effect that would have on it

2. You think the tide may rise higher in the river than in the Bay, then?

A. Yes, I think it may,

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Though I do not know what
offset that would have on it
but I know that it raised
seven feet

— " —

Recess until 9.30 A.M.
Tuesday Nov. 22^d /81.

In the Superior Court
of the State of California
in and for the County of
Sacramento

The People of the State of California vs.	} Morning Session Tuesday November 22 nd /81
The Gold Run Ditch and Mining Company)	

Transcript of Testimony Volume

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Winfield J. Davis
Official Reporter

In the Superior Court, City
and County of Sacramento,
State of California

The People of the State of California vs.	} Morning Session Tuesday November 22 nd /81
The Gold Run Ditch and Mining Company	

Testimony
of
A. Foster

recalled

Mr. Cadwalader. In reading
his testimony over the witness
saw some point that was not
expressed as he desired it and
he has made a diagram. That
was unsolicited on the part of
any one was it not?

A. Yes sir

Q. Will you just explain
what it relates to

A. It represents the point

between Sacramento City and
Steamboat Slough, Kichevils.
This is drawn without regard to
any scale, merely to give my
idea of what I wish to con-
vey. This line represents the
levee line (referring) this line
represents zero as per our gauge
in 1849 whatever that form
might be (Explaining the diagram
to the Court)

Mr. Hart. Have you marked
those lines so that you can
give the names of them to the
Reporter?

A. They are marked on the
diagram. The distance from
this line to that is 24 feet
showing the raise of water
in 1861 and 1862. This shows
the height of the raise at
Kichevils, showing what I
call an increased raise by
the flood of ten feet between
Sacramento and that point, or
an increased fall that is from
the low water of 1849 to the
high water of 1861 - 24

and shows an increased fall.

The absolute level is not represented

Mr. Cadwalader. What you have explained upon that plat is this that now there is a grade of six inches to the mile instead of four, high to low water from this place down?

A. It showed a grade of six inches, that is an increased grade of six inches instead of four inches as it was in 1861-1862

Q. Is it more at low water than at high water?

A. This shows the difference between the low water of 1849 and the increased fall at high water of 1861-2

Q. Well I know but your testimony bore down is that; that the grade of the river has increased from here to Steamboat slough?

A. Decidedly
The Court. I do not so un-

understand it. The difference between the rise there and the rise here is all that he is illustrating.

A. The difference between the rise there and the rise here is all that I have attempted to give here.

Mr. Cadwalader. What I meant was that he was illustrating the alignment the crest at high and low water.

The Court. I do not understand him to have given that either.

A. Not in this. We know that the fall has increased but how much we do not know.

Mr. Cadwalader. How much do you know that it has increased?

A. We know that it has increased over 1849, six feet six inches this year, that would be from this point to tide water however.

The Court. The Captain

illustrates nothing but the fact that the water rises higher here than it does below, the gradual lessening in the amount of the rise as you go down the river at the time of high water, but the relative levels of low water there and high water here, or low water here and high water there he has not attempted to give Mr. Catlin. About the fall of the river in the low water season per mile, do you know?

A. I could not state positively I believe that the fall was something like eight feet in early days, that is from San Francisco Sacramento to San Francisco if you choose Suisun Bay at that time would have been about the same

Mr. Cadwalader. What is it now? A. If that be the fact there would be six feet six inches added to that this year as the gauge stood this year

Testimony

Of
Joseph Pontier

Called for Plaintiff Sworn
Mr. Hart. Where do you
live?

A. I live in Brighton Township
2. How far East of the City
of Sacramento

A. Ten miles

2. How far from the bank of
the American river

A. My ranch is on the A-
merican river. My house is
on the high bank

2. How long have you resided
there continuously

A. I came there the 15th of June
1853, about twenty eight years
and a half

2. Are you ten miles on a
direct line or ten miles following
the meandering of the river?

A. Well, I live at what is
called the ten mile house.
By the railroad it is about
ten miles and a half, I guess.
ten miles and a half on a

Straight line ten miles I guess
and I suppose the difference
comes from taking the railway
from the other depot going
all around the City front Mr.
King it longer

Q. Ten miles and a half by
railway?

A. Yes sir from the depot
Mr. Catlin's counting from Front
Street I suppose?

A. Yes sir

Mr. Hart. What occupation
have you been engaged in up
there?

A. I have been gardening
farming and orcharding

Q. On which side of the Amer-
ican river is your ranch?

A. On the South side

Q. In 1853 what was the
character of river channel at
your place?

A. Well the ^{river} channel used
to strike against the bank
about 50 yards from where
the house is. It is a bluff
bank there and the river used

to run alongside of that bank at that time

2. How deep were the banks of the river there?

A. To the water edge forty three feet

2. Forty three feet from the bank?

A. Yes sir from the top of the bank to the water edge it was forty three feet.

2. At low water?

A. At low water, that is to say, in the summer the current. That is not the perpendicular height?

A. Yes sir, it was the perpendicular height from the bluff where the house is to the edge of the water it was forty three feet perpendicular

Mr. O'ant. What was the character of the water that ran through the banks there

A. I never saw the water clear there. From 1853 the water was pretty muddy already

Q. Do you know whether or not at that time there was any hydraulic mining going on up the stream?

A. I do not know. I do not believe there was, but I do not know anything about it.

Q. What was the character of the bed of the river?

A. Rocky. We could crop the river in some places on stones. The bed of the river there was rocky — stones.

Q. What was the character of the land on your side?

A. What we used to call the bottom land, used to be rather sandy and black, it was good soil for vegetables.

Q. Where were the bottom lands?

A. The bottom land was north of the house, a little north East of the house.

Q. How far from the river?

A. Well, it was along the river.

Q. Were the banks of the

river as high, higher or lower,
than the adjoining lands or the
lands back from the river

A. It was and it is yet
twenty feet difference between
the upland where the house
is, what we call the upland
and the bottom land, that is
to say the upland was forty
three feet above the level
of the river and the bottom
land was about twenty or
twenty three feet.

Q. Now were these bottom
lands along the river?

A. Yes.

Q. Between your house and
the river?

A. Not exactly between a
little East of the house

Q. They were East, up the
river from you?

A. Yes sir, North East

Q. How far up do the bot-
tom lands extend?

A. Well, about five miles
along the river, what I call
good bottom land up to Cox's

Farm

Q. What is the character of the land across the stream from you?

A. On the other side?

Q. Yes sir. A. It was good bottom land there.

Q. The same as on your side in height or was it higher or lower?

A. Well, my idea is that the bottom land near the ridge on the other side was a little higher than ours.

Q. A little higher than on your side? A. Yes sir, but that is only an idea I had, I never measured it and never took any notice of it.

Q. How far up the stream were you acquainted with the channel of the stream itself and the banks?

A. Oh, I used to go there along that river up to the San Juan Grant and sometimes higher.

Q. How far is it up to the

San Juan Grant from
your place?

A. I suppose ten miles.
Q Where we used to crop
it was about four
or five miles.

Q When if ever did
you become familiar
with the banks and
bed of the river ten
miles east of your
place up the river,
when did you become
familiar with it?

A Well, about 1853,
1854 or 1855, I used
to hunt a good deal,
I used to go up both
sides of the river
hunting.

Q. What were the Character of the banks along up the stream, up to this point ten miles above your place

A. Well sir it was a Beautiful bank, it was Covered with shrubbery with ferns, ~~covered~~ with live oak and ^{all} kinds of flowers and I thought it was just as nice a landscape as I wanted to lay my eyes on

Q. How far out from the river did the lands extend that you think were good lands along up through that Country running as far east as you speak of

A. The last good land on the other side that I noticed was the San - Juan bottoms there,

Q. This is on the south side

A. On the

North side of the river,

On the South side the side where I live the lost land I consider like extra land was the land of Thomas Cox about five or six miles from where I live right on the river. I was very well acquainted with Thomas Cox he was in the same business I was raising fruit mellons &c and I used to go there.

Q Was the land uniformly of good character or was the good land only in spots running along up that stream.

A The land was uniformly good and black.

Q What were the heights of the banks as you went up the stream to this point & ten miles above your place.

A The bank on the bottom land from 16

to 20 feet along the river

Q. And on the other land

A. on the other land what I call the red land the average is from thirty five to forty feet from the river

Q. Thirty to forty feet perpendicular heights.

A. yes

Q. What was the character of the shrubbery and trees on the opposite side of the river

A. There was not so many on the other side as this side, on the Morris grant there is a flat of Willow and brush.

Q. Were the trees near the banks or far from the banks

A. There was any quantity of big trees along the banks

Q. Close to the banks.

A. Yes close to the banks, they are there yet

Q. ~~were~~ those lands the occupied, or unoccupied

A. They were occupied

Q. All the way up

A. All the bottom land was occupied.

Q. By large or small farmers, in large or small quantities

A. I would say by small farmers considering what you call large farmers here

Q. To what purposes were these lands usually devoted

A. On which side

Q. On the south side

A. Well a good deal of it was put into vegetables and mellons and fruit trees, but the biggest part of it was put into wheat & barley

Q. Can you make an estimate of about the

Number of farms there were between your place and this point ten miles east of your place.

A Well you mean on the bottom

Q. Yes all along up on the banks of the river

A. I suppose about fifty along there

Q. Between your land and ten miles up

A In those days people did not stay very long in one place, they used to be there and go and come back, I could tell the name of my intimate neighbors who used to be there for five or six miles but above that I could not

Q. Were these lands fenced

A. Yes

Q. Houses upon them

A Yes, all the bottom land was fenced in those days

Q. How deep in is the river channel in the places that you have described now

A When I came there in 1853 right opposite my place there used to be a big black Oak on the bank of the river, it stood there till after 1862, and under that tree as I said before we had to go sixteen feet to water, maybe sixteen feet to water, now in 1867 I cut that tree and when the flood came it filled up the river there not only level with the tree that was in the bank sixteen feet but covered the trunk up so well that we could not tell where the trunk has been and nobody can see where the tree has been now

1572 Q. How high was the stump after you cut it off

A Between three and four feet

Q. What then is your estimate of the amount of filling up that there has been there

A Well I do not know exactly how deep the river was but my idea is it is twenty feet on the level of sediment there

Q. So I understand you to say that the bed of the river itself was filled above the banks

A. The bed of the river was first filled with sediment or sand or stone or anything, I do not know what it was on top of. That twenty feet more

Q. How much more

A Twenty feet more

Q. Twenty feet more than the bed of the river

A. Yes Sir the edge of the water -

Q. That is twenty feet

from the edge of ^{low} the water.
 A. Yes sir twenty from the
 edge of low water, that is
 to say if the water was
 six feet deep it had
 filled up there twenty six
 feet.

Q. Did you ever examine
 the character of the sediment
 and sand that came down
 there

A. Yes Sir.

Q. What is - what kind
 of material is it

A. In the olden time we
 used to have a kind of
 heavy sediment - in the
 olden time in the beginning
 we used to have a kind of
 what I call a vegetable
 sediment, good soil that is
 to say of a nature that
 would not hurt the land.

Q. When was that

A. That was before 1862 and
 up to 1867. after the big
 flood we had some of it
 yet

Q. Since that time what is it A. from 1867 the most of the sediment I get there is not exactly sediment it is a kind of a rolling sand very fine in some places and very coarse in others.

Q. (The Hodgdon exhibit shown)

A. There is a lot of that

Q. You say there is a lot of that A. Yes, Sir. the most part of it is not like that, there is less of that kind than the finer kind.

Q. Look at the bottle which contains sand marked No 4 A. S. G and state whether or not you have any of that kind

A. Oh yes any amount. That land is all covered with it. that looks a little lighter than it does at my place

Q. Have you ever undertaken to determine the proportion

of these different materials that have come down in the bed of the river and upon the lands adjoining
 A. No sir

Q. Well of which kind is there the most

A. What sand ^{we} have now, what is deposited on the lands around there now is the sand of that last kind but of a whitish color a little lighter in color than this, so light that any wind will roll it and make it a perfect cloud

Q. When did you first notice the river bed containing any of this sand

A. Well, the first I saw of it was in the flood of 1862 we had a little of it then - 1861-2

Q. Do you know where it came from at ~~at~~ that time

A. Not of my own knowledge

Q. Do you know whether

it came from the adjoining lands there or came from above

A. Well my reason tells me that it comes from above, the hydraulic miners say they have none of that sand there, I do not see where it could come from.

Q. Where do you know it comes from, whether you know it came from above or from the adjoining lands right where you are

A. I do not know anything about it of my own knowledge come I could not say that

Q. Was there any of that sand on the adjoining lands there before this flood

A. No I am going to explain to you, you go into the bottom lands on the banks on both sides of the river and after you get the good soil

The soil that becomes black by age and by leaves and by vegetation you go and dig about five feet and you find some sand that looks like that

Q. You dig five feet below the soil.

A In some places you will find some of that white sand brought there I don't know how many years

2. How far does this deposit of sand in the river there extend?

A. There is more or less sand in different places, sandy land on both sides of the river.

2. No. I say this deposit of sand, how far does that extend?

A. How far where?

2. Up and down the river.

A. Well, it is here in Sacramento it is at my place and it is away up. I have never been any place in the river except under the Tolson bridge that I did not see any.

2. How far up the river do you know that it extends above your place?

A. Well, say ten or twelve miles.

2. Is it of uniform depth?

A. I could not say personally about that. I know there is sediment in

the river above, but I could only tell you the character of the one that is about five miles from my place down the river.

2. How far up the river does it entirely fill the channel of the river?

A - Well, some places it comes full the channel of the river so much that the ~~water~~ river does not come there at all.

In some other places it has about filled up and the water is part on the bank and part in the place where the old river was —

I could not say exactly.

But I know of places where the back of the river is entirely filled up.

2. Do you know of any particular length or stretch of filling up there that you can describe the length of? That is,

A - Well north of my place I guess there is about half

a mile of land there where the bed of the river is entirely gone, entirely filled up, and where the water comes is where it used to be low land on the other side

Q. Where it runs on this low land on the other side has it cut a channel or is it simply running over the surface of the soil?

A. It has cut all the soil that was there. ~~While~~ ^{it} came to rock and stone and stopped there

Q. How deep did it cut before coming to stone?

A. In some places it just cut ten feet; in some places where the land was poor it cut only five feet

Q. What is the difference in depth between the new channel that has been cut and the old channel as it was in 1852?

A. I did not measure it - I am no engineer - but my

idea from that little point
I used to judge ^{or average} ~~by~~ ^{is}, that
there is from about sixteen
to twenty feet difference.

2. You say you first noticed
this sand coming in 1862. Now
describe to the Court how you
have noticed it coming since
that time into the river.

A. Before 1862 I never
noticed any of that sand on
the land. In the big flood
of 1862 I was not on the
ranch; I was at Washoe
When I ~~went~~ ^{came} back I found
the ranch covered with that
white sand. And then we
did not get any more of it
until 1863. During that time
I tried to put the place in
order and to plant trees.

I planted a lot of trees
there, fruit trees; but every
thing was washed and destroyed
and buried in

but I went in 1863 and 1864
and planted on top of it.

I thought we would never

See that come again; I thought
we would never see such a
flood again, ^{and} I have been
planting out all over the
place. And we did not get
~~any~~ another flood until 1867.

2. You say you first noticed
this sand coming in 1862. Now
describe to the Court how you
have noticed it coming since
that time into the river?

A. We used to cross the ^{river} on a boat
to go on the Morris Grant.

2. When was that?

A. After 1862. Between
1862 and 1867. And one day
we were passing one place
and would say, "This is a
good place to go in a boat."
The next day we would go
there and get mixed; could
not get out there.

2. You would shoal

A. Yes. In one day or two
days the sand would gather
in the river, so that where
it was a good passage today
in two days there was no

Passage at all and we
 Could not go through it but
 had to find another Channel.
 We used to go up and down
 to find a place to cross, for
 quarter of a mile or half
 a mile. Of course when
 the water would get lower we
 could see where it was sand.
 The bed of the river began to
 be filled up with sand during
 those five years.

2. Did you notice whether
 it filled gradually, each
 year more, or whether it
 filled all at once?

A. Well, it certainly filled
 gradually, but then every
 year after the big winter
 rains we used to have a
 comparatively clean river, ^{very easily} we could cross.

2. This had been washing it
 out?

A. Yes. It would make a
 channel and then the ri-
 ver would not be so swift
 and then the sand would deposit
 again and fill it up

Q. How often have you noticed the river washing out and clearing out the sand and the ^{river} again filling up?

A. Almost every year when we had high water.

Q. Do you know where it washed this sand to during the times of those freshets when the water was so swift?

A. It carried some of the sand in it.

Q. Do you know where it carried it to? A. I suppose it carried it down stream.

Q. About what depth did it usually wash it during these freshets that you have mentioned? A. About 10 feet; we used to have water about 10 feet deep. ² Then, after every freshet; that is the water would wash out 10 feet. A. Yes.

Q. Then about how long after that before it would fill up again? A. It would

begin to fill up every year in June and July and August.

Q Did you ever examine the water during the times of these freshets, the water that was coming down from above, to see what it contained? A. We used to take it in a glass, to see how heavy it was: We could see it was full of mud and sand.

Q. About how much mud and sand, would get in the glass? A. Well, I recollect

some of it, we got one-fourth Q. One-quarter of mud and sand? A. One-quarter of sediment in a glass.

Q. What do you mean by sediment? A. Well deposit of all kinds.

Q. You refer to sand and mud and everything?

A. Sometimes if our pump and our well was out of order, we had to

go to the river for water, and ^{we} had to let it lay and settle, and we dare not drink it before it settled for some time.

Q. During the time that this mud first came down, what was the matter - What effect has it had on the water in the river?

A. It is not good to drink there, and I do not know of any other use you can put it to.

Q. Can it be put to any domestic use? A. No sir, nobody uses it.

Q. Now these lands on the other side of the stream that you say were covered with sand to some extent, how much of those lands were covered in this stretch of 10 miles, that you speak of east of your place ^{up} on the river?

A. Somebody got drowned there; a woman by the name

of Mrs. Carr, got drowned there in 1862, and we went searching for her body; Somebody was out searching, and I could see that the river was white with sand, I did not go in many places to find out, but more or less of these bottom lands were covered with sand.

Q. About how many acres?

A. The whole of it; I do not know how many acres.

Q. You know about what amount? A. Well, I suppose there was ~~about~~^{one} thousand acres there.

Q. On your side of the river? A. On our side of the river

Q. And east of your place?

A. Yes; north-east.

Q. The river runs in a northerly direction there, does it? A. Yes.

Q. How deep is that land, your bottom land covered with this sand.

A. In some places it is, that is one place alone at the end of my orchard; it is not covered with sand. We can see the original soil. That is what used to be an Indian camp, about one acre there where you can see the original soil, and the balance is all covered.

Q. How much have you there? A. From 6 inches to 10 feet.

Q. How much land have you there? A. Well, the Surveyor says I have got 40 acres, but I think I have got about 50; it looks to me to be that big.

Q. For what purposes had you used your land up to the time of the flood in 1862? A. I used to have part of it in orchard and part of it in vegetable garden.

Q. How much orchard had you there?

A. Well I had on that place
3,000 trees.

Q. How much of it, did
you use for vegetable garden?

A. I think about 10 acres
of it was used for a vegetable
garden.

Q. What became of that orchard
and that garden?

A. I had 3,000 trees, and
after the flood I still had
about 300.

Q. After the flood of 1862?

A. Yes, I had about 300
trees left.

Q. What has become of
the ~~rest~~ balance of them?

A. They were buried in,
killed and washed out.

Q. That is all, except the
300?

A. All, except the 300,
and those 300 were buried
in the soil, about three
feet, and we had to dig
around the trees, to save
them that way, and we
saved some of them, and
I have some of them now.

Q. How did you save them?

A. By digging them out, and straightening them up, and trying to give them air, and give the sun a chance to get at the roots

Q. What has become of these 300 trees? A. I guess I have about 130 of them standing there yet

Q. What has become of the balance? A. They are dead.

Q. Do you know what it is that has killed them?

A. They were buried too deep in the sand; they could not get the heat of the sun, and they slowly died.

Q. Where your land is covered with this sand, can you raise anything on it?

A. I can raise trees.

Q. What kind of trees?

A. That is to say I raise trees if I dig deep enough in the old soil, because the roots will go below, but

where it is covered with 10 feet
 of sand ^{I can not} ~~I had~~ I had been
 planting ~~and~~ trees there 18 years
 ago, and they are very poor
 trees to this day; they did
 not give two crops yet, in
 18 years. In 18 years they
 gave me about two crops,
 and they are ~~dead~~ ^{dead} now.

The soil is not
 strong enough ^{we established}

Q. Can you raise ~~any~~ ^{any} on
 that land? A. No sir

Q. Can you raise wheat?

A. No, sir

Q. Barley? A. No sir, we
 can raise morning ^{glories} ~~glories~~.

Q. Is that all? A. That is
 good. If a man could raise
 that it would be pretty good
 for pasture

Q. You can raise it?

A. I do not raise it; it
 grows little by little. Morn-
 ing glory is improving on that
 land, because it keeps the sand
 from moving

~~###~~ The greater part of that

sand came on the soil in 1861 and '62.

Q. Has it been increasing any since? A. We had some in 1867; but of late years it washed more -

Q. How near to the top of the banks at your house has the river filled, to the top of the original banks, at your house where you reside? A. It was 40 feet deep? A. I do not understand your question

Q. How near to the top of the original banks, where your house is located, on the highland, has the river been filled?

A. Twenty-four feet.

Q. It has filled 24 feet there?

A. Yes, it has filled to about 24 feet, to the top

Q. Making about a 16-foot fill? A. Yes, 16 to 20.

Q. Do you know whether or not the proportion of sand now carried by the river during times of freshets is more or less than it

used to be? A. These last few years, it seems to me, the water is thicker and more heavy; I did not touch that water for years.

Q. What has become of the trees that were on the bank of the river there. A. The ones that ~~had~~ ^{have} not been washed out there to-day?

Q. The large trees? A. Yes, they are all dead; some of them are buried 10 feet; some of them are buried 3 feet, but they are more or less all buried in the sand.

Q. How near does the water in the river, as it now runs through its bed come to the top of the bank at low water mark?

A. About ten feet.

Q. About ten feet from the top of the bank? A. It came to about 10 feet from the bluff; ten feet from the house.

Q. How near on the low

or bottom land? A. On the low land?

Q. Yes, A. It is 10 feet from the house, it is all over the low land, then the low land is all covered,

Q. It comes up higher than the low land? A. Where the house is, it is 43 feet from the river now, when the river is high the water will come from eight to ten feet from the bluff, from the top of it, and when the water is that high of course the bottom is all covered,

Q. I mean at the low water mark? A. Yes, my idea is at low water mark,

Q. The water was about 25 feet from the top of what?

Q. Of what? A. Of the bluff

Q. How far is it at low water mark from the bottom land, where those trees were growing? A. About 6 feet; it seems to me about five or six feet.

Q. How near to your house did the water come during the extreme high water in 1852-3

A. In 1852-3 I was not there

Q. You were there in 1853?

A. Yes

Q. Well, in 1861-2?

A. It came to about ten feet from the top.

Q. It came to about ten feet?

A. Yes

Q. What is the difference now between the capacity of the river to carry water during ordinary high water and the channel as it was in 1853 when you went there?

A. The river proper has no capacity at all to carry water

Q. At this time?

A. At this time. When the water comes it has to go on top of the river some way

Q. That is at your place?

A. At my place. It has no capacity for carrying water there at all. It is all full of sand

Q. But the Channel false -
quently made by the river, how
does its capacity compare with
the capacity of the original Chan-
nel?

A. Well, it extends
on a big area, it extends a
great deal wider than it used
to be. I have seen the water
between the bluff by my house
and the bluff on the other side
that is two miles wide, and
I suppose if you call that
the bed of the river it can
carry a good deal of water.
I have seen it two or three
miles wide there.

Q. I mean the channel of
the river itself?

A. I do not think it can
carry any water at all as
a general thing. In places
you will find it going back
in the old bed of the river.

Look at Petersons. The water
will go against the bluff there
and pass at the foot of the
place where the house used
to be, and the water is so

Swift there that it digs a Channel just about like it was. But that was only for a short time. About two hundred yards further this way it will be gone.

Q. Have you any levees up in your Country? A. No sir.

Q. Did you ever have any?

A. I think I tried it between 1865 & 1867, but I gave it up as a bad job.

Q. Did you ever have any levees before 1863? A. I just had a little bit of levee to stop the back water.

Q. How high?

A. Three feet I think. I thought it was very nice.

Q. Did you have a levee three feet high along your place there? A. No sir, only a

short distance.

Q. For what distance?

A. About three hundred feet.

Q. Did you ever have any other levee? A. No sir, never.

Q. Prior to 1863, when did

you say the first flood up
in your country there came over
your lands?

A. My idea is — I am not
sure about the date but it
was in 1855 I guess. But
in March, ^{we had} what I call a flood
then ~~we~~ ^{we had} the water up pretty
near over half of the orchard

Q. How long did it stay there?

A. Just two days

Q. Did it injure your orchard
any? A. No sir, we were
very glad to get it

Q. Did you have any more
floods, any other floods, after
that and before 1862?

A. We had little freshets
like that but we did not
think there was any harm
in them at all.

Q. Did you have them fre-
quently. How often did you
have those little freshets?

A. Sometimes we had two
in one year and sometimes we
did not get any. I did not
take any notice of it

Q. Has your land ever been covered entirely, that is, all excepting the bluffs?

A. Yes, it was covered twice

Q. When was it first covered?

A. 1861-2

Q. Since that time have you had any floods, if so what kind of floods have you had?

A. We had a flood in 1867, then we had pretty high water two or three years ago and then we had a young flood this year, I will say, but this year the water was not by four feet I think as high as it was in 1867

Q. A small flood?

A. I say this last year the American river water was not as high as in 1867 by at least four feet or maybe five

Q. Does it take more or less water now to make a flood up where you live?

A. Well, it takes a good deal less water.

Q. A good deal less?

A. Yes, a good deal less.

Q. Have you any levees there now?

A. No sir.

Q. None at all?

A. None at all.

Q. When was it you say you undertook to build a levee, in 1865?

A. I guess it was in 1864 and 1865.

Q. What kind of a levee do you say you made there then?

A. Well, it was only about three feet high. I had a depression in the soil and when the river was up at the high mark and we were about having a flood the water used to come in that place and bother me some and I made a little levee to stop that. That is all the kind of levee I had.

Q. Can you cultivate your lands at all now for any purpose?

A. Well, I used to have my vegetables.

I can not. When I want to cultivate it, it is covered with water. The water goes off generally in August and September and it is too late for anything.

Q. It goes off in September you say? A. Yes, the water goes off in August and September. This year it did but every year there is more water left.

Q. How long does it stay there on your place usually at this time? A. It is there always.

Q. There is water on your place all the time? A. Yes.

Q. When did that condition of things come? A. Well, it 1872 if I recollect right it was dry entirely and I had made a pasture there and we had to dig six feet to get to water. The river was very low at that time and we had to dig six feet to make a watering place.

In the stock. But from that time it never has been dry. I never saw that hole any more; it is covered.

Q. How much of that land is covered with water all the time? A. It is not

over an acre now but six or seven acres is covered long enough to stop me from doing any thing and from using it for any purpose except for a watering place.

Q. What has become of these orchards along up the river that you spoke of?

A. Well, they were small orchards. They were left and destroyed. I do not know what has become of them really, they are not there any more.

Q. Are any of these lands cultivated between your place and the point you speak of ten miles north east of your place? I mean the bottom lands?

A. Yes, there are some cultivated now.

Q. Where is that land that is cultivated?

A. Well, mine is one of them.

Q. How much of yours is cultivated? A. About thirty-five acres I suppose I have got it in trees Mr. Catlin. Thirty-five acres of the bottom lands?

A. Yes, of the bottom lands Mr. Hart. This land you say you got ^{no} crops off of it.

A. I got no vegetable crops. You can raise neither grain of any kind nor vegetables. Only I planted trees.

Q. I understood you to say that you only got two crops in eighteen years from these trees? A. When the ground is covered ten feet deep with sand I did not get any crop on that land of any thing for fifteen years.

Q. What other land of that

Kind is covered in that way?

A. Mr. Junderons, my neighbor, has about thirty or forty acres there.

Q. What proportion is that of his land?

A. His land is fine. It is used to have between three hundred and four hundred acres.

Q. Who else cultivates any there?

A. Mr. Menke. He has got hops in part of it.

Q. Will hops grow in sand?

A. They will grow in good sand, but not in that kind. They grow where the soil is good.

Q. They do not grow in that kind of sand?

A. No sir.

Q. How much is he cultivating?

A. He has about forty acres in hops.

Q. What proportion is that of his land?

A. He has got about one hundred and ten acres of land, but some of his land

has gone. I guess he had one hundred and thirty acres or the man before him had one hundred and thirty or one hundred and forty acres but he lost thirty or forty acres in the north end of his field.

Q. When did he lose that?

A. In 1862 and 1863

Q. How did he lose it?

A. It washed away. The good soil washed away and the sand was left there and it is good for nothing. And then we have a Chickasaw ranch that now belongs to Carle & Crosby. They have about ninety acres in the bottom in cultivation.

Q. What proportion is that of all of his land?

A. That is all he has got there. He did not lose any of his land. He had a lot of his land covered with sand but eventually he succeeded, these last two

or three years in growing Alfalfa there. He used to have several acres that he could raise nothing on, neither Corn or anything else and finally they sowed some barley there early in the winter and the barley grew about that high (indicates) and lay in the sand and they put alfalfa in there — Eventually they put alfalfa in there and it succeeded, after several years trial.

Q. That was after the sand had been deposited there?

A. Yes.

Q. What kind of land was that before that sand had been deposited there?

A. The best in the County.

Q. How deep is the sand there now?

A. Well, in some places I suppose he had sand there ten feet deep on a slough on a kind of a depression in the sand. What they call a slough there

Q. How in other places?

A. In other places it was just six inches or a foot or less.

Q. Does he cultivate that portion of the slough when the sand is ten feet deep?

A. Yes, he has it in alfalfa now. That is the place where he succeeded.

Q. What proportion of all these bottom lands there are now cultivated?

A. Well I suppose half of them.

Q. The balance are left.

A. [Int.] Well, they are used for pasture.

Q. Are they good for pasture?

A. Very scant, very poor.

Q. How do the compare now for such purposes with formerly, before the sand came upon them?

A. Well, my neighbor used to keep there fifty head of stock on his land, and now I do not believe he can keep five.

Q. On the same land?

A. On the same land. In fact there is no grass there at all after the spring water. It leaves nothing but sand and mud there and nothing grows except brush.

Q. How far back does this sand extend that comes from the river there? How far back from the river?

A. You mean the sand on the land.

Q. Yes. A. Well it extends all over the bottom land there. All over. All the bottom land has more or less sand on it I think.

Q. State whether or not these bottom lands, from the time you went there until 1862 could have been cultivated every year? A. Yes, they used to be cultivated.

Q. Without levees?

A. Without levees at all.

Q. You had no difficulty in cultivating them on ac-

Count of the floods?

A. Not at all

Q. Did you ever see them all covered with water before 1862?

A. Never.

Q. How often have you seen them all covered with water since 1862? A. Once

Q. Once since 1862?

A. Yes, in 1867. I did not see them in 1862 because I was not there, but I knew they were. I saw them in 1867

~~Top Examination~~

Q. You know a man by the name of Paterson? A. Yes

Q. Where is his place?

A. His place is east a half a mile from mine

Q. East? A. No, West, half a mile from mine

Q. On the river? A. On the river

Q. What effect has that sand had on his place?

A. Mr. Patersons ranch now is only composed of 117

Acres of land. When I came
 there first he used to have an
 Island in the river, what I
 call an Island because when
 there was any high water it
 was a perfect island. In
 low water it used to belong
 to his ranch and the Channel
 was on the other side. He
 used to have about thirty
 Acres of good bottom land
 there, all covered with nice
 trees and so forth. And in
 1862 that was utterly des-
 troyed and after 1867 up
 until now you can not tell
 the place where those thirty
 Acres were. The trees are
 entirely obliterated or covered
 or carried away and there
 is nothing but sand in their
 place. And the place where
 his house was on the bluff—
 he used to have a nice gar-
 den on the bank of his house
 and now the land is gone as
 far as where the house was.
 That is to say when the house

was the land is there yet,
but the back land is all gone

Q. How is it gone?

A. It has crouched away

Q. What is there in place of
the land? A. There is ~~nothing~~
in there, there is water. At
the place where the house was
there is water.

Q. What is the nature of
the bottom there, that is so
far as the soil is concerned
under the water. Is it soil
or sand? A. It is sand.
That white sand all over

Q. Did you ever have occasion
to go down the river from your
place? A. Yes I had

Q. How long since?

A. The last time was in
1872 or 1873

Q. How did you go down?

A. With a boat

Q. What kind of a boat?

A. A very small boat

Q. A skiff? A. Yes

Q. Not a steamboat?

A. No sir. I tried to go down

the river but I remembered not.

Q. Why? A. I stayed on a sand bar there and we had to go down in the water to here *(indicates)* and carry the boat. That is the way I went down. And that is the last time. I do not want anymore of it.

Q. Was that in high or low water? A. Well that was in what I thought was ordinary water.

Q. Ordinary high water?

A. Yes it was in July or August

Mr Catlin July or August
 it is low water is it not,
 A. No. the water was not
 very low then. we got the
 low water in September
 in those days. you know
 I could not tell you
 exactly but I know
 I got stuck there,
 very well

Mr Hart Did you notice
 the deposits ^{of sand} ~~off~~ in the river
 coming ^{along} down there.

A. You can see them
 all over. they are
 there and every body can
 see them

Q. Was it all sand all
 the way down

A. I did not see any-
 thing but sand except
 in a few places, some
 gentleman who were at
 my place showed me, and
 led me to pay attention
 to it a few places that
 had a yellow kind
 of soil. they said that

Came from these mines,
there was so little of it
tho I did notice it
until that time

Q. Who were those gentlemen
with you,

A. Some Hydraulic miners
They came to see if —
Mr Catlin (interrupting) you
need not tell what those
gentlemen said.

Mr Hart where were those
yellow spots? in the river
or on the land

A. Do you ask if it
was in my place or
any place else

Q. No. I say, where were
those yellow spots in the
river or on the land

A. On the land above me

Q. What did you notice
to be the character of
the bed of the river all
the way down

A. The bed of the river
all the way down? where it
was possible for that river

to get out of its bed
it did it. there was no
bed there

Q There was no bed there
A. No.

Q. What was the character
of the soil where the ^{bed of the} river
was and had been

A. I in '53 and until
60 the bed of the river
was rocky

Q. All the way down
A. all the way down,
where we used to cross. on
foot then

Q. I am speaking of from
your place to Sacramento

A. Yes. That is just
what I am doing, the
bank was a very nice
bank on this side of
the river; Of the American,
on the South side, we
had a good bank all the
way down; the road used
to follow the river all
the way through. we used
to follow it going to

Sacramento, following the river all the way to the five or four mile House I used to cross on horse back there

Q. at the time you came down in 72^{what} x did you notice ~~at~~ to be the character of the bed of the river then

A. It was all mud and sand

Q. Mud and sand

A. Yes, mud and sand

Q. All the way down

A. Yes all the way down

Q. What was the character of the banks all the way down

A. The banks were very much obliterated. The banks were steep, that is to say the sediment or mud had been there on the bank, and the water coming down it would fall in the river and leave the bank kind of abrupt, and make

the bank square up, and it
 comes not be forded any more

Q. How deep did you notice
 the banks to be in 1872?

A. I did not pay any par-
 ticular attention

Q. Above the sand I speak of?

A. You mean how much of
 that sand

Q. How far from the sand to
 the top of the natural bank?

A. In some places it might
 have been ten feet at that time.
 That is to say, the river might
 have been ten feet, before coming
 up on top in some places, and
 in some places less

Q. How much less?

A. Five - six

Q. Five or six feet? A. Yes

Q. From the sand on the bottom
 of the river to the top of the
 bank? A. It is near the
 top of the river in high water.
 In places there is to get to
 terra firma or land, in some
 places it lacked ten feet and
 in some places only four or five

or six feet, that is the best that I can recollect. The banks used to be higher than they are now

Q. Could you see any of the rocks that formerly formed the bed of the stream in 1872?

A. No sir, not where the water used to be running, but the water is on the other side, it runs there now

Q. You can not see any of the original river? A. No sir

Q. It is all covered with sand? A. Yes.

Q. I will ask you what was the general character of this sand that you noticed coming down there since 1867 and in 1872 at the time you came down here?

A. In 1872 or 1873 like in 1867 the character of the sand has been the same all the time, that kind of whitish sand.

Q. All the way down?

A. All the way down, that

is of a whitish color, you take it when it is dry and it will fly off and when it is wet it sticks pretty well together, but as quick as it is dry it will blow off

Crop-Examination of Joseph Raultier

Mr. Catlin Just repeat your last description of the character of this sand when it is dry and when it is wet?

A. When the sand is wet like all sand it sticks together, that is to say, it looks to be so, and if you take a hand full of it and expose it to the sun it will disintegrate and become very light and blow off.

Q. It will fly off in dust?

A. In dust and sand. If it was dust it would be pretty good, but there is no dust about it.

Q. How many acres of land have you there now?

A. Well, what I told you before, I have about forty or fifty acres on this river.

Q. How many acres of land have you got?

A. In my ranch

Q. Yes.

A. Well the Sur-

vay or say 82 acres

Q. That is the amount of land which you originally purchased and have been cultivating ever since?

A. Yes.

Q. About forty acres of that land is what you call bottom land?

A. Yes.

Q. And the other forty is what you call up land?

A. Yes.

Q. That portion you call upland is not it on the general level of the lands bordering on the American river with the exception of the so-called bottom lands. You understand me? Is that a hill where your house is?

A. No, it is what I call timber land, upland or timber

land, that is where there used to be a good many white oak trees. It is on a level with the surrounding country. ² This bluff you speak of, you speak of it as a bluff simply because the banks are steep there?

A. It is no higher than the surrounding country. It might be one foot but that is all.

2. This upland coming from the west comes right up to the edge of the river bank until it strikes your place, does it not?

A. Only between Paterson and me for half a mile.

2. Well, for a half a mile allow you?

A. Yes.

2. And when it comes to your place the river takes a bend to the north. Does not the river run nearly north for a mile or two?

A. North, yes, north or about north east a little.

2. This bluff land though continues right on eastward

does it not and leaves a bottom
formed by the bend in the river?

A. It goes further back. I
am the nearest man on the
river

Q. How much further does
that bluff land run back?

A. Well, that land goes up
to Alder Creek

Q. Does not ^{it is not} that ~~land~~ going back,
that is going up the river?

A. It does on. I understand what
you say. You mean how much
down.

Q. I am trying to get a descrip-
tion from you from which the
Court can understand the nature
of this land. You say coming
up the river for about half a
mile it is level bluff land
extending right to —

A. (Intq) To the edge of the
river

Q. And it forms a steep bluff
about forty feet high?

A. Originally, yes, it used
to be so

Q. Now when it comes to

your house — your house
stands right in the bluff?

A. Yes

Q. The river bends to the north quite abruptly?

A. Abruptly to the north, yes.

Q. These bluff lands do not follow the river up, but they extend right toward the East, do they not?

A. You want to know how long they extend going up or coming down.

Q. I want an answer to my question? A. I do not understand that question

Q. Do these bluffs extend on up to the East, or do they follow the bank of the river around to that bend?

A. From my house East?

Q. Yes. A. Yes, there is a bank extends on

Q. A bluff bank?

A. A bluff bank. There is a depression that goes inside, that goes East. Now here is my

house and here is Patersons house and here is a bluff bank and here is the river. From my house East, that is going towards Folsom, the bank instead of staying with the river turns and comes this way.

Q. It does not follow the river?
A. No sir, it makes more bottom land

Mr. Hart. The bluff bank?

A. It is not what I call a bluff bank. It comes down to what I call a smooth edge; it can be cultivated. It is only at my place where you can not cultivate it, that is, the bluff bank.

Mr. Catlin. There is a very marked distinction between bluff land and bottom land, is there not?

A. Yes, we do not make any mistake on that. We know what bottom land is, and what upland is.

Q. At the time of the big flood in January 1862

and also in December 1861
you were in the mountains
you say? A. Yes, I was
in Washoe

Q. When you came back
you found that the river had
covered this bottom all over
with sand? A. Yes.

Q. How extensively had it
covered this whole bottom that
is above you between the bluff
and the river?

A. You mean going east?

Q. On the Stoddons bottom land?

A. Yes

Q. To what extent did it
cover it? how many acres?
generally speaking.

A. There are a thousand a-
cres upland there what I
call bottom-lands and it
was all covered

Q. In 1862 state whether
or not there was a considerable
tract of that land that was
entirely washed away and
the original soil washed in
to the American River

A. Back of the land I have got now, and East of me away up that river, there are about 300 acres of land that has been washed away there in 1862 and 1867 and now

2. I am speaking of 1862?

A. In 1862 about 200 acres of that land was washed away

2. How deep?

A. Well about an average of ten feet. From the top of the ground to the gravel, down to the Cobble stones.

2. There is a bed of coarse gravel and cobble stone underlying all the land in that section?

A. At that time —

2. Just answer my question, and then explain. Is there not all along the south bank of the American river a bed of gravel and cobble stone underlying the surface of the land? A. Yes

2. To what extent does that run up and down the river,

and how far does it run out?
 A. My idea is that the Cobble Stone Extends all over that basin

2. The flood of 1862 swept away the virgin soil on that bottom, clean down to the Cobble stone bed. Where did it sweep that material to?

A. I suppose it must have come to Sacramento. I suppose it came this way somewhere

2. Now since that time, the subsequent floods have swept over the same lands have they not?
 A. Yes.

2. And deposited sand and sediment upon them? A. Yes.

2. I will ask you this taking that two hundred acre piece of land that was swept away in 1862 —

A. (< hit >) It was 200

2. You say there have been some deposits made on it since. Have the deposits that have been made on it since replaced the amount that was

Carried away in 1862. Has it brought it back to its original level, or is it there still looking very much as it did in 1862?

A. Well, it replaced it, as if you had a purse filled full of gold and someone put copper in it.

That is just the way it replaced it. Suppose you have a dish full of gold and someone replaces it with copper. I know what you mean. There is some sand there, but it did not replace the soil there at all.

Q. I am enquiring whether it filled it up. Has it filled up that place with anything, with sand, or anything else?

A. It filled it up partly with sand, partly only.

Q. Is that sand all over it or is it in little drifts here and there?

A. There is some of it all over it but in places it is more and in other less. Some places look

to be richer.

2. During what floods have the greatest changes been made by the action of the American river upon its banks in the vicinity of where you reside?

a. The greatest change was made in 1862. Before that time every thing was as natural as could be, and that is the first time we noticed it and it looked to us to be the first time that we saw any change in the river. And it struck us like a bad year anyway.

2. The Patterson ranch is how far below you? a. Half a mile.

2. How high are the banks now above the water right where the old Patterson Hotel stood? a. I did not care much to go to the edge to measure it, I was afraid it would cave in, and take me in there. It might be thirty or thirty-five feet.

2. Thirty-five feet?

A. It might be I do not know. I do not know by measurement.

2. Do you not think it is fully thirty-five feet if not forty feet? A. I have no positive knowledge of it, but I think it is about that.

It is just for a small distance

2. There is not much difference there since 1849-50, none to amount to any thing, is there? A. Suppose it ^{is} 40 feet. It is only for a short distance. after that ^{it rises} ~~it rises~~ ^{up again}.

2. Is that river wider at your place than it was in 1853?

A. I guess it is, yes.

2. Has ~~not~~ ^{the} bank of the river on this side been cut away a great deal by the natural action of the water, in high water, ever since you first knew it. Has not the bank on this side been breaking in from year to year?

A. The first time the bank broke it was in 1862 and in 1867, Paterson's soil washed away and his barn pretty near went in the river. I guess his worked more in 1867.

Q How much has the river en-
croached on this high bluff between
your place and Pattersons the
old ranch I mean that half
mile ridge east of there?

A There used to be a toll road
there.

Q. Answer my question?

A. I do not know if you do
not want me to explain
I did not measure it I could
not tell.

Q You have not measured any
of those distances?

A. If you do not want me to
explain to you ~~no~~

Q (Intg) I do not want any
long stories?

A. I will be as brief as I
can be

Q Can you tell whether it was
fifty feet or one hundred feet
or one hundred and fifty feet
or more?

A. We had a toll road then -
we had an old road and
then we had the bank of the
river and in some places it

is gone the toll road is gone
the macadamized road is gone.
My I saw some places it was
taken off fifty feet

Q state whether the appearance
of it when you first came there
did not indicate to you that
the natural course of the river
at high water it ~~ate~~ ate into
the bank from year to year?

A. No sir, not at all. When I
first came there the bank was
perfectly covered with moss and
ferns and trees and shrubbery of
all kinds

Q. On this side?

A. Yes, on this side between Pat-
Erons and my place

Q. What was there on the other
side?

A. On the other
side were willows, like it is now.
It was low land and never
had been cleared

Q. The low land was covered
with willows? A. Willow trees
and so on

Q. Very much as it is now?

A. No,

Q. I thought I heard you say so . . ?
 A. Not exactly. On the bank it looks like it was, but if you go and look at it you will find out —

Q. (Int.) It has the same general appearance that it had at first ?
 A. If a man didn't look at it very closely he would not notice it, but if he looked at it closely he would see that nothing but willows are left

Q. I want to know whether there is a large bar over there which when you first came there in 1853 was covered with willows and growth of that sort ?

A. Yes, and it is there yet, ^{you may} ~~the~~ call it a bar. ^{If I had it I would} ~~we can~~ make a garden out of it, but they call it a bar

Mr Hart. Is it a sand bar ?

A. No sir, there is good soil there in some places; just the same soil that I have, only it has not been cultivated, while I cultivate mine — that's all

Mr. Calvin L. On those forty acres of bottom land how many fruit trees have you now?

A. I generally put 130 trees on an acres.

L. One hundred and thirty?

A. Yes, but I suppose I did not get over four thousand trees on that bottom.

L. Do you think you got about four thousand there? A. Yes.

L. You had about three thousand trees, before the flood of 1862?

A. Yes.

L. The flood of 1862 destroyed all of your three thousand trees except about three hundred?

A. I think about three hundred, Y^es.
L. But it left those three hundred considerably buried in sand?

A. Yes.

L. By digging the sand away you preserved about one hundred and fifty of those trees? that lived along a considerable time and the other one hundred and fifty died? A. Yes.

L. This orchard you say you

have now, you have planted twice that time? A. Yes.

Q. About four thousand trees? A. Yes.

Q. Now what is the age of the main body of those trees on that bottom? A. I have got only a few trees there.

Q. I am asking you about the bulk of them, the main body of them. What is their age? Mr. Hunt. At this time?

Mr. Catlin. Yes.

A. They were replanted in 1863 and have been planted every year since.

Q. They were planted after the by flood? A. Yes, I replanted part of the orchard in 1863, and have been planting every year since that time. I have got trees of all ages from one year old to eighteen years old.

Q. I asked you what was the age of the latest portion of them? A. The best trees that you see when you come there, are about twelve years old.

Q. The majority of them?

A. Not these one hundred and fifty. I mean the ones you saw when you were there, and said that they were nice trees.

Q. I am not asking about those superannuated trees of a former age. I am speaking of those trees that you planted in that land.

A. The best trees I have got there are about ten or twelve years old.

Q. Is not that a fine thrifty orchard?

A. It is very nice.

Q. How does your fruit business compare, say this year, for instance, with former years. How was the general business last year?

A. The business has been very good.

Q. You have made more money off of that ranch in 1881 than you ever did before, have you not? Now answer that question.

A. I will tell you, yes, but I am going to give you the reason for it now.

Q. One reason is you have

better trees? A. Yes, I have made more money this year than I ever did before, except one year, I guess.

Q. What year was that?

A. I made a good deal of money in 1871. That is all that I recollect.

Q. 1871 and 1881 have been your best years for making money?

A. Yes.

Q. Now then, state the reasons why you made money, if there are any, in 1871?

A. In 1871, I had a large crop and every body was disgusted by the flood, and they had no good fruit anyway. Nobody had been replanting anything and I was very near alone and I got good prices.

Q. Did you have a good crop too? A. Yes, I had a

good crop, I suppose.

Q. You have generally had a good crop there, every year, have you not? A. Well, except

when we have frosts, generally

Q. Except when there are frosts?

A. Yes, except when we have frosts.

Q. Sometimes it has been injured by frosts, and you have got no crop, but with the exception of the years when you have been injured by frosts, you have had good crops every year since have you not?

A. Yes. Do

you want me to explain why

Q. Yes, if you choose

A. Well, I planted my trees in 1871, and from that time, I planted the trees every place where I could catch the old soil.

Q. You commenced in 1863

A. Yes, and in 1863 I planted in the best places and after that in 1870 I never touched the best of the land. After that flood I got disgusted like every body there. I had about twenty acres that I did not touch, and I let it go. In 1870 I thought I would try again and I cleared the land again and planted trees there, and the trees did

very well in every place where it was within two feet of the surface — Where we could find the old soil, because we made great big holes to reach the old soil

Q. Where the deposits did not exceed two feet in depth, you planted trees? A. Yes, we planted trees but we could never raise any vegetables. I could never raise any vegetables after that

Q. Could you compete there, ten miles from the City, with the vegetable raisers in town?

A. I tried to, but I gave it up

Q. What is the depth of the deposit there on the principal part of your orchard, on your original bottom lands. What is the ordinary depth of the deposit?

A. Well, there is no ordinary depth there. I could not tell you, because in some places you cannot find it by digging ten feet and

in some other places I can show
the old soil within 18 inches but
in a very few places.

2. I am speaking right through
these rows of trees. What is
its average depth. The original
bottom was level was it not?

A. No sir, it was a slope

2. Well, a slope

A. Sloping down.

2. A Slope can be level uni-
formly? A. It was uni-
form like that ~~indicates~~ if
you call that level. It was
that way

2. Was your land what you
call level - level bottom land,
and sloping a little?

A. It was not exactly level
like that, it was inclined to
the north

2. Was it cut up with sloughs?

A. No sir, not much

2. Can not you give us an
idea ^{the general depth of} of the deposit there was
on your land?

A. I told you I have got an
acre of land there -

2. < Intg > You have answered that, that you had some with ten feet, and some with six inches. Now is that the nearest you can tell us about the ordinary depth through your orchard. Is that the nearest description you can give? A. Well, say an average of two feet, except on about two acres where it was ten feet.

2. On two acres it is about ten feet, and on the balance there was an average of about two feet? A. Yes, two feet, and about six or seven acres that it took the land off and now it is a bend.

2. How many of those four thousand trees are on that kind of land, that deposit of soil? A. What?

2. How many of the four thousand trees on your bottom land are on this land where this deposit is? A. Well, they are all of them there except maybe an acre

Q You state that there was water standing there. Is not that a little pond hole, right below the bluff, where it is lower than it is in your orchard on the bottom, and the water stands there now

A. When I have got water now it is where I used to raise vegetables before 1867

Q. Is not it a pond hole there. About how wide is it. Is it as wide as this Count room?

A. It is a good deal bigger than that. We have a swamp there, and it is a good deal bigger than that. There is about an acre of it there now

Q. I am asking you about the width of it. About how wide is it?

A. Between the top of the bluff

Q. ~~(Intg)~~ How wide is that little sheet of water there?

A. I do not know

Q. Do you know how long it is?

A. I do not know

Q. Is there any body here that

does know? A. I do not know

2. When was that depression made, and how was it made, what caused it; the hole in which that water stands?

A. When it was made?

2. Yes. A. It was made in 1867

2. By the high flood of 1867?

A. The waters came around near over the bottom lands, near the foot of the bluff lands. The water came in there and cut it out so that it leaves a pond hole there now

2. Describe it? you say it came in 1867. How did it come in 1867?

A. All right, I am going to explain it to you. In 1867 I had a garden there and the river was not filled up like it is now by a good deal —

2. <Intg> But state how that depression was caused

A. There is no depression there at all. The land was there in that way, in that shape <Indicate>

2. Is there not a depression

Where this water stands?

A. Yes, it is a depression

Q. How and when was it made?

A. In 1867 by the river raising ^{and} the land standing on the same level with the river bank the water came up and run in there

Q. It was cut out by the flood of 1867? A. It was caused by the rising of the river

Q. It was cut out by the flood of 1867? A. It was not cut out at all. The level of the Sipage water came up that high in 1867

Q. Is not the ground there lower than it is in your orchard?

A. Of course it is: Did you ~~Dr.~~ ever see any such land that was not low land? I took my lowest land to raise vegetables on; of course I did.

Q. What makes that place ^{than it is in} ~~lowest place~~ in your orchard

A. God Almighty made it so himself

Q. That is what I supposed

The land between where this water stands and the river has been raised by the deposits has it not?

A. Yes.

Q. This place where the water stands was on the original bottom. That is the original soil when you used to cultivate the vegetables?

A. When I used to cultivate vegetables there?

Q. There is where the original soil was?

A. Yes.

Q. And between there and the bank of the river, the river has since deposited this deposit where your orchard now stands?

A. When I first went there I had to build a road there about six feet high in order that I could go down.

Q. You do not understand my question.

Mr. Hart. The trouble is Counsel wants to testify and have the witness answer yes. The witness But I won't do it.

Mr. Hart. The Counsel tries to put the answer in the witness' mouth.

Witness. Never mind, he can't do it.

2. This place where the water stands is not where the original soil was?

A. I suppose it is

2. Now then between that and the river, your land where the orchard is, is several feet higher is it not?

A. Well I have got no orchard in the depression between that point and the river, and the sediment stood there for the reason that I built a road across. It was all low there and I built a road and when the back water came from the river it could not go quite enough and the sediment stays there in that first depression and it is now two or three feet higher than where that point is

2. When did you buy your land there, after the big flood or before? When did you purchase this land the eighty two acres of land — about

What year?

A. I guess ^{it} was in 1863 or 1864.
 Q. It was after the big flood?

A. It was after the big flood.

Q. What rate per acre did you pay for it?

A. I paid twelve and thirteen dollar an acre.

Q. You paid twelve or thirteen dollar an acre for the 82 acres?

A. Yes, Sir.

Q. What is it worth now?

A. I do not know.

Q. You know something about what it is worth, don't you?
 You can tell or something near?

A. Well, I do not know if it is worth that or not but I have been offered two hundred and fifty dollar an acre for it, but I would not take it. I don't say it is worth that, but it is my own and I want to stay there and live and die there if they will let me.

2. Have you been offered
250 an acre for the whole
12 acres? A. Yes sir

2. And you would not
take it? A. No sir

2. You do not consider it
worth that much you say?

A. Well, it is worth a good
deal to me, if I was sure
I could keep it

2. Of course, that high price
was in consequence of your
fine improvements and trees
A. Yes sir

2. You have got trees also
on the upland have you not?
A. Yes sir

2. This land that you
call upland? A. Yes sir

2. Is not that about
as good for trees as the low
land, or is it not?

A. Not so good

2. Not so good?

A. That don't bear on an
average

2. They do not bear so
well as your trees do that

are on this bottom? A No sir

2. Now who is the adjoining proprietor right next above you?

A. Mr. Studerous

2. How many acres of land has he?

A. Well, I do not believe he has got more than 100 acres of what I call land. He has got about 300 acres of sand bar and about 100 acres of land

2. Is there a man named Menze that has got 114 acres?

A. Yes sir above Studerous

2. His land does not extend to the river does it?

A. Yes sir it does

2. Menze land?

A. Yes sir. Before he had that land it did not extend exactly to the river, it extended to the bar. He has got some of that washed away

2. Next comes Can and

Croly the land formerly owned by Mrs Carr?

A. Yes, by Mr Carr

Q. How far is that land that is cultivated by Menze in hops, and by Carr and Croly in chicory south from the bank of the river?

A. Well, Menze, it must be a mile from the extreme north end of Menze's ranch to the river, I guess it is, I did not measure it you know and I do not pretend to be accurate, I should say about a mile

Q. Was not this land of Menze's and of Carr & Croly's covered with sediment in the big flood of 1862

A. They were

Q. Clear up to where the bluff rises?

A. Well, the sediment did not go up to the bluff but the bottom land was covered

Q. Clear up to the base of the bluff?

A. Yes sir

2. Not to the top of it of course?

A. Now, I guess he had about eight or ten feet to spare on the bluff. There was a good deal of sediment on the low places I recollect.

2. What kind of sediment was that?

A. It was in that low place.

2. Very much like that that came on your land?

A. Yes, there was a good deal of white sand, rolling sand there.

2. Well now that has been cultivated for how many years past for hops and chicory and corn?

A. Like I told you before, it was several years they could not raise anything on a good many acres of it because the sand was rolling. And it is only in late years that they succeeded in planting.

2. How deep was that

Covered with material generally.

A. The whole of it

Q. What was the general depth of it?

A. Well, I do not believe they had over six inches on the north part of their ranch and I suppose that as much as ten feet in the south part.

Q. Was not it covered to an average of two or three feet deep over the whole bottom?

A. Well I could not tell that because I never plowed it?

Q. An ordinary plow would not strike it — it would not strike it if it were a foot deep

A. Well in Chiving where they used to plow two feet and they could not cut the old soil in many places

Q. How deep did the water flow in 1862?

A. I do not know

Q. You did not see it, you were there soon after and

you could see the water marks?

A. Well supposing the bluff is forty feet high on the high-land, I suppose he had ten feet of water there, ten feet on an average and may be twenty feet in the low places

Q. How extensive were their orchards above you on that river prior to 1863?

A. Not very extensive. Mr. Carr had a little orchard

Q. Mr. Carr?

A. Mr. Carr — old man Carr

Q. That is where Carr and Cooley now are?

A. Yes sir, but Mr. Carr used to live in the bottom

Q. How much of an orchard did he have?

A. Well, he had maybe an acre or two there

Q. Did any body still above him have fruit?

A. No sir

Q. Going on up the river?

A. There is Morton who has got an orchard there and

Mr Smith has got a little orchard and Mr Williamson has got a little orchard

Q. How much orchard have they got?

A. They have got quite a piece

Q. Was Williamson's orchard affected by the flood?

A. He did not have but a very few trees at that time I guess. I don't believe he had much of an orchard at that time

Q. You say that the debris has covered any of the lands of John Taylor?

A. Mr John Taylor has got no bottom land except —

Q. Then has he been injured by the debris? has any sand covered his land?

A. No sir, I do not believe Taylor lost anything by it

Q. Do you know where Farmers Dyggs is? A. In SW

Q. Where?

A. Back of Keller farm. It is north

of Keller farm

Q. Has not a large amount of bottom land been washed off into the river by the miners?

A. Well, of course, there has been a large amount of surface mining done there

Q. Have they not mined it down ten feet deep?

A. Yes, in some places where it paid they did but on an average they did not

Q. Where did that material go? was it washed directly into the river?

A. I have no doubt but it was.

Q. Where did it go to?

A. Down here.

Q. It lays around the City now?

A. Yes, and Grand Island and all those places. I do not know, you know, I did not see it go

Q. Do you remember when it was they mined there in

Farmer Diggings?

A. Well, it was before the flood. It was before 1861-2. They have been mining since but not so extensively.

Q. The great bulk of the mining done upon Farmer Diggings was done prior to the flood of 1862?

A. Yes sir, it was done prior to that flood.

Q. Look at that map and point out to the Court whereabouts your place is on that map (handing over a copy of the map of the "Rancho de Los Americanos")

A. That is my place right there (showing) My place is where the old adobe house of Heidesdorff is marked, it was built in 1846 (the court map explains the map to the Court)

Q. These squares are miles. Every one of those is a section of land. Does that about represent the way that bluff runs

And the way the river runs?

A. The river at this point does not run in here like that. It runs this way (referring)

Q. I am speaking of it as it was in 1862 and prior to 1862?

A. Yes sir, that shows it Mr. Catlin. I will state here that this map was made by George H. Goddard a very Competent Civil Engineer from actual surveys in the field and made in the year 1864 - 5 along there

The Witness. The place marked Fremont House is the place where the Taylor ~~house~~ ranch is now

Q. State whether that map represents Folsom and all those places - I want to bring it before the Court, so that the Court can get some idea of the whole section of country around where the City is?

A. That used to be familiar

to me but whether it is correct or not, I do not know. I am not judge of that kind of business here.

How high is the land on the other side of the river where the bluffs are represented?

A. Well, in some places on the other side it may be fifty it may be eighty feet high. In one place where there used to be an adobe house it may be 100 feet. Mr. Cahlin. I propose to put that map in evidence now the same as the other map was in order to facilitate the Court in understanding these witnesses as they are called from time to time in attempting to describe that country there. They are now commencing to examine witnesses in regard to that country. This map was made by George H. Goddard in 1863 and purports to show

The correct topography of
 that whole section of country
 from a point ten miles above
 here until you get away into
 the foothills above the town
 of Folsom. It gives every
 stream and every depression
 and give the representation^{elevation}
 in feet in red ink marks of
 the height above sea level,
 and gives the location of the
 Sacramento Valley rail road
 and the location of every
 piece of bluff or bottom land,
 in other words the topography
 is very correctly delineated
 there, made from actual
 surveys in the field. I pro-
 pose now that we use that
 map and propose that Counsel
 look at it and satisfy him-
 self that it is correct
 The Court. It is competent
 for Counsel on either side
 to use any diagram. There
 is no assent to the correct-
 ness of any figuring upon it

Mr Collin, you said Mr Rother
 that in 1855 there was a
 flood that lasted about
 two days. that came about
 half way over your
 bottom land, and it did
 no harm and you were
 glad to have it there —
 why ever you glad to
 have it overflow

A. Well it left that land
 which was very light with
 a sediment on top of it
 that enriched the land,
 that was the only reason

Q That was the reason —
 That was in 1855

A. And besides that we
 used to have gophers on
 the land and it killed
 the gophers and that
 was one of the benefits
 we found out of it

Q Now how far is it
 from the level of the bluff
 land there where your
 upper orchard is for
 instance — your orchard is

on the high land

A. Yes sir I have got some on the high land

Q How high is that above the level of the water in the American river say for instance last summer during the low water season - have you ever levelled it so that you can tell exactly.

A. No I did not level it.

Q. Now tell us your best judgement in regard to that high, the actual place where the water run at low water

A. It might be twenty five feet

Q How many acres of that forty acres of bottom land has been practically destroyed for agricultural purposes - turned so that you cannot use it for any agricultural purposes by all the floods that

You have had since you first come there

A. I have about six acres that is too wet for anything and I have got about four acres where there is nothing but Cobble stones left

Q. How many

A. Four acres

Q. Is that washed down to this Cobble stone bed

A. Yes Sir

Q. Because it is washed down, the original soil is washed off down to this underlaying bed of Cobble stone

A. Yes Sir but at that place I don't believe there was more than four or five feet of soil

Q. You did not have more than 4 or 5 or 6 feet of soil there originally

A. Originally I do not believe there was where the four acres were

Q. That is very low ~~the~~ there

A. No it was not low but the Cobble Stone was high.

Q. The lowest part of your ground

A. No sir it was high - it was as high as the highest I have

Q. Then the Cobble Stone washed away about four feet of the surface

A. At that place yes sir

Q. When was that washed away that you just described

A. In 1867 - I did not lose any land until 1867

Q. There was none of the actual soil washed away in 1862 but in 1867 there was this three or four acres

A. Yes sir, I had four acres washed away in 1867 and about seven acres made so low by

Rising of the river that
 they were fit for nothing
 And then on those two
 acres there is ten feet
 of sand there that don't
 grow anything, if any
 trees are planted there they
 do not bring anything

Re direct Examination
 of
Joseph Routier

Mr Hart You were asked
 something about some Farmers
 diggings you were asked
 something about them, about
 how extensive has the mining
 been there

A. I do not believe there
 is a hundred acres in
 that bar

Q One hundred acres
 in it.

A. I do not believe there
 is that much

Q. About how deep has
 it been mined

A. In some places you could see they went mining as much as ten feet deep.

Q. Well take an average.
A. Well I could not do it because you could not take an average. There was only a very few of those claims that was worked to the bed rock and the other did not pay and they left them half way or

Q. Is there any deposit left there from the effect of the mining.

A. Now? I. Yes sir.

A. I have not been there lately, I could not tell. it may be and it may not. When I was there a few years ago there was none.

Q. Where did they have their dumps?

A. Well, the most of their sluices went to the river.

I do not know that they all went to the river, it seems to me that they did

Q. If they had taken all the dirt out of that place 10 feet high, would it fill this river up as it has done to Sacramento?

A. No sir

Q. Would it have made one hundredth part of the sand that there is between here and there,

A. I do not believe it would amount to much I don't believe we would notice it.

Q. You do not think you could notice it

A. No sir

Q I will ask you whether or not there is as much sand on one or two little farms up there or about your place as could have been

taken care of that mine,
by all the mining that
they have done there,

A. I guess there is more
sand on Studerous' ~~place~~^{bar}
than ever came from there

Q. More sand than ever
came from there?

A. Yes sir.

Q. You were asked some-
thing about the value of
your place. I understood
you to say that the sand
there had increased its
value.

A. No I did not say
that at all. I say that
the place where the sand
was not too deep above
the good soil, where
we could work.

Q. You said you were
offered \$250 an acre for
it, and paid only \$12
an acre for it?

A. Yes sir.

Q. When did you buy it

A. I bought it 18 or 19 years

ago.

Q. Were there any improvements upon it?

A. No sir; except a little

Q. What was the comparative value of land in that country then, as compared with this time

A. Everybody told me that I was a fool, and I paid twice as much as the land was worth

Q. They were not selling land very high then?

A. No sir.

Q. What is the reason that it has increased in value?

A. The land kept low until the Central Pacific Railroad was built, and then we got a trade for the fruit up the road

Q. It is the fruit improvements there, the improvements in fruit trees?

A. That was only for my fruit that they offered me that much. They would

not have paid that much for the land

Q How much have you taken ^{of} that in profits since you have been there?

A. I in the last 12 years I suppose my gross sales amount to \$10,000 or \$12,000 a year.

Q. If the sand were not there would it be as valuable, or less valuable or more valuable than it is now?

A. If the sand was not there it would be more valuable.

Q How much more?

A. I had 2 acres of land there of one certain kind that I would not have taken \$500 an acre for, the naked land, though it is now covered with 10 feet of sand.

—H—

Testimony

Wm. S. Jozf

Called for Plaintiff, Sworn

Mr Cadwalader - Did you make that map (a map shown)

A. Yes sir

Q. What does it purport to be a map of?

A. A map of a portion of the Sacramento River

Q. What portion of the Sacramento River?

A. The from Sacramento down to the mouth of the old river

Q. Which is also the mouth of Steamboat Slough, is it not?

A. They come together and form a junction

Q. Well what I want to get at is what do you call the mouth of old river, Is that the lower end of it?

A. Yes sir

Q. What did you make this

map from?

A. I made that map from my own knowledge of the river

Q. From your own knowledge of the river?

A. Yes sir

Q. What is your business?

A. My business is steamboating, I am a Pilot

Q. A Pilot on the river?

A. Yes sir

Q. Does this purport to show the bars on the river?

A. Yes sir,

Q. And the channels?

A. Yes sir

Q. And the people who live on the banks of the river?

A. Yes sir, with some few changes

Q. And the different houses and different objects along the river

A. Yes sir

Q. They are all correctly located are they?

1672

A. They were correctly located at the time that map was made

Q. When did you make it?

A. In the winter of 1878 - it is on the map there, I think it is 1878-9

Q. The upper object is the Pioneer Mill, is it not, in Sacramento?

A. Yes sir

Q. This does not embrace Steamboat Slough ^{does it?}

A. Yes ^{to} sir

Q. That you do not know anything about?

A. I am not posted enough to draw it.

Q. It shows where Steamboat Slough enters and empties. What boat are you Pilot on now?

A. I am not Pilot on any boat now

Q. When did you commence to be a Pilot on this river?

A. About four years and a half ago.

1703
Q. What was your first year?

A. 1877

Q. What was your next year?

A. 1878

Q. What was your next?

A. 1880

Q. You were off the river in the year 1889?

A. Yes, sir

Q. Have you been on the river during the year 1881

A. A portion of the time

Q. Up to what time?

A. I have been on the river a little over 2 months now

Q. What 2 months would they be in this year?

A. I came on the Modoc, the 14th of September, and I was Pilot on the modoc until the 18th of November

Q. That was a few days ago?

A. Yes sir

Q. So you were on here during the low water season?

A. Yes sir

Q. I believe you stated that this map shows the bars on the river

A. Yes sir, the shoals

Q. You mean the sand bars, don't you

A. Yes sir

Q. It shows the channel and the crossings of the river,

A. Yes sir

Q. Just as it would be operated?

A. Just as a Pilot would run it

Q. Take a section of the old river, that is navigated now is it not,? and has been for the last 4 years

A. Yes sir.

Q. The boats all go through there?

A. Nearly all

Q. There is the best water, is it not?

A. Yes

Q. State what changes have occurred there in the old river, say within

The last 4 years in the way of filling up.

A. There has been a gradual filling up the whole distance excepting on the shoreless places, the crossings— Q

Q. Do I understand you to say that there has been a gradual filling up except on what are called the shoals, since you went on in 1877.

A. Except on the crossings in the channel, not the shoals.

Q. Except on the crossings.

A. Yes sir.

Q. But there is good water on the crossings.

A. About the same that there was 4 years ago.

Q. Just explain in your own way what a crossing is.

A. Well a crossing proper is, where you leave one side of the river to cross to the other side. Sometimes there is a short crossing, and sometimes there is a long crossing.

Q. Why do you cross?

A. In order to follow the Channel

Q. And to get rid of what?

A. To get rid of shoals

Q. So the crossings are really crossings to avoid shoals

A. Yes sir

Mr. Catlin. The crossings are Channels. The channel crosses from one side of the river to the other.

A. Yes sir
Mr. Cadwalader For instance indicate them in front of Sacramento City what would be the line?

A. There are reaches, regular reaches, and then there are crossings where we leave one side to go to the other side

Q. To go to avoid a shoal?

A. Yes sir

Q. You could not go down the other shore if you wanted to?

A. No sir

Mr. W. C. Belcher. Is there anything on that map by which the witnesses can so in-

decide it that the Reporter
Can have it

Mr. Cadwalader. The map
explains itself I think so.
There will be no difficulty
about it. How much water
did you have on Haycock
Shoals this year?

A. I shined judge about
five feet

Q. How was it in 1880?

A. In 1880 I shined judge
about the same

Q. How was it in 1878—
Haycock Shoal?

A. There was very little
difference from what it is
now

Q. How was it in 1877

A. In 1877 it was about
the same or very nearly, that
is not the shoal proper but
the crossing where we steer

Q. That is no better this
year?

A. There is very little dif-
ference from one year to another

Q. At that place

A. Some years it arrived
be shoaler and at other years
deeper

Q. When you got down to -
words Old River what change,
do you notice in the river?

A. There are no material
changes excepting the gradual
filling up where there was
plenty of water before

Q. Has that been noticeable
since you went on the river
in 1877?

A. Yes sir,

Q. The gradual filling up
of places that were formerly
deep

A. The gradual filling up
Mr. Catlin. Let him de-
scribe it

Mr. Cadwalader To me and
describe it — are there any
exceptions to that along the
line of that map

A. I do not think I un-
derstand you

Q. Is it as a general
thing from Sacramento City
down to the mouth of

Crossings Shoul

Old River that in the past
 four years there has been a
 gradual filling up of what
 used to be the deep places.²

A Yes sir, what we call
 reaches

Q. How does that effect
 the navigation of the river

A. It makes navigation
 worse. Boats cannot run
 as fast, it is more difficult
 to get them up and down the
 river

Q. How does that manifest
 itself to a pilot².

A The pilot has to be
 more posted that is all

Q. I mean does that
 manifest itself to a pilot
 as the boat is in progress
 controlling the water².

A. He can tell that by
 the feeling of the boat, the
 way she steers any other
 indications

Q. What is the distance
 from Jarramont to the mouth
 of Old River

A. I do not know the survey. I call it about fifty three miles

2. What part of that fifty three miles of river, according to your calculation, would these crossings represent in quantity?

A. A very small part

2. Well, give us some idea?

A. There are quite a number of crossings, but they are ~~short~~ so short from one side of the river to the other that the distance is immaterial in the length of the river. There is just a few hundred yards or a quarter of a mile in a crossing

2. How is it as to the size of the bars? Have they been increasing or diminishing?

A. They have been increasing

2. Since you went on the river

A. Yes

2. Growing a little larger each year?

A. Yes. In a general way

Mr. Cadwalader The map
I offer in Evidence
Mr. W. C. Belcher Offer it in
Evidence as a diagram or
what

Mr. Cadwalader I offer it
as a map made by the
witness from personal obser-
vation of the river

Mr. W. C. Belcher If counsel
offer that as an instrument
of Evidence like a deed, I take
it that it is inadmissible.

If they offer it as a diagram,
then when witness has been
prop- Examined, it is admissible.

And it is admissible now so
far as it is shown to be correct.

If they offer it as a diagram
there will be no objection to
it at any time

Mr. Cadwalader Our point
is that it is a proved map.

Mr. W. C. Belcher Not yet.

And we object that it is only
admissible as a diagram

Mr. Host We offer it for
what it is worth simply

The Court. Do you wish to
Cross & examine the witness on
it first Mr. Catlin?

Mr. Catlin Yes sir

Cross - Examination
of
William S. Joy

Mr. Catlin. When you were
Engaged in piloting between
what points did you run
as pilot?

A. I ran between different
points at different times and
on different boats. I have
run on the whole river

Q. Ran from where to
where chiefly?

A. From San Francisco
to Sacramento

Q. Did you make regular
trips between San Francisco and
Sacramento?

A. Yes. Three trips a week

Q. On what vessels

A. I was on the Centennial

in 1877-8. I was on the Modoc this season, last season, last summer. A year ago last summer I was on the steamer Onward but we did not come through to Sacramento; we stopped just below Clarksburg.

Q. Does this map show the courses and distances of the river?
A. Yes. Not the distances

Q. Do you understand what I mean by courses and distances?

A. - It does not show distances; there are no figures to show distances

Q. Does it show for instance what the course of the river is between Sacramento bridge and the first bend in the river?

A. The Compass points show. The Compass points are near the bottom of that map

Q. Then, the distances here are indicated by the Compass

A. No; that below that
(pointing)

2. There are not marked on
the river?

A. No. They are not marked
on the river

2. Was this made by any
instrumental surveys?

A. No, I made it by the
Compass. I laid the river out
on paper by the compass, and
my own knowledge of it

2. Have you measured
these distances?

A. I measured them in
my own head, nothing more

2. In other words you
judged what the distances
were, what you deemed them
to be?

A. I judge of the distance
is a great measure by the
time, the time it took to run
from point to point, which
when there is plenty of
water you can do very
accurately

2. At what time of year

Was it when you made your judgment of these distances?

A. It was at different times of year

Q. In the bed of the river here you have portions that are dotted with fine dots that I suppose are intended to indicate bars are they not?

A. Yes.

Q. Did you measure those bars with any instrument to ascertain their length?

A. Those bars at a low stage of water are all in sight out of water

Q. That is not my question. Did you measure them with any tape line or any thing of that sort? A. No.

Q. You put them down here as a mere sketch?

A. I put them down very accurately. I know where the bars end and where they commence by the bank.

Q. Did you put them down merely as an eye sketch

from your observation in going
up and down the river?

A. Not an eye sketch
at all.?

Q. What then?

A. I could put them down
if I did not see them at
all. I could put them down
if I only run the river in
the night, and put them
down accurately; and

I ~~this represents~~ that comes
not be an eye sketch

Q. You did not sketch them
then from the observation
of your eyes?

A. Not altogether. Very little
by my eye

Q. Very little with your eye

A. Yes.

Q. The remainder of it you
made up from the observation
which appeared to be opened
by the action of the boat as
you passed over. Could you
tell by the rudder and the
action of the boat whether
you were on shoal water or

While then you were in deep water?

A. I made it out by ~~thy~~ Knowledge of the river

Q. I am trying to get at what your Knowledge is

A. I Can not understand what you mean by the way you express yourself

Q. For instance, here is a bar. Can you tell how many feet long that bar is?

A. No.

Q. Can you tell how many feet wide it is? A. No.

It is liable to change, that bar is liable to be fifty or one hundred feet longer today than it was a week ago or even that much shorter than it was a week ago. I give the outline of the bars, their general size

Mr Cadwalader. By reference to objects on the shore?

A. Yes, partially. It is pretty hard to explain that so that Every one can under-

stand it as I do, I can not express myself & give my knowledge of that map.

Q. When did you make this?

A. I think it is 1878 and 1880 marked on the map.

Q. That date is not here; at least I did not observe any?

A. It is a very fine figure down at the bottom (showing)

Q. For what purpose was it made at the time?

A. It was made simply to satisfy myself. I made it as an amusement. I thought that I knew the river pretty well, and I thought I would put it on paper for my own gratification, and give some copies away to my friends.

Q. When was it lithographed?

A. That is not a genuine lithograph.

Q. Is it a wood Engraving?

A. It is what they call a photo-lithograph Engraving.

Q. When was it put on

paper in this form
 Q. Something like a year ago

Q. For whose use and what purpose?

A. For my own use, simply for my own gratification, to give away a few copies to my friends

Q. When you were running on the Centennial were you the chief pilot or were you assistant?

A. There were two of us. Two pilots on the Centennial but I do not know that either one was Chief

Mr. Cadwalader Were you were one of them? A. Yes.

Mr. Cahen. Did you not go at that time into this employment to learn the business of piloting under Captain Dickinson? A. No.

Q. Was not that the beginning of your experience as a pilot? A. No.

Q. Where had you been

piloting before?

A. In San Francisco Bay and its tributaries and the San Joaquin River

2. How long had you been engaged in the business before that?

A. Over Eleven years, over Eleven years in all

2. Were you ever the Chief Pilot of any boat?

A. I have been Chief Pilot and Captain of a boat

2. Have you been Chief Pilot of these boats you were running in in 1877 on the Sacramento River?

A. I am a First Class Pilot; that is what my license calls for

2. I am asking you about your Employment; whether you were employed as Chief Pilot on these boats?

A. I was employed as Pilot; no Chief or anything else attached to it; only as Pilot. There is only one class of Pilots

2. Who usually piloted the boats up from the head of Steamboat Slough to Sacramento? Did not Captain DeKunzen usually bring the boat up from there?

A. Not always. It depended on what time we got there.

2. My question was, did he usually do it?

A. It depended on what time we were running that part of the river. If it came in my watch I steered it; if it came in his watch he steered it.

2. That is not an answer to my question. I asked you whether Capt. DeKunzen usually piloted the boat from the head of Steamboat Slough to Sacramento.

A. I can not say that he did usually.

Mr Cadwalader I suppose
you use it to stand watches
A. We use it to stand 6-hour
watches.

Mr Cuttin Was it not
arranged so he should have
a watch when the boat came
into the Sacramento River
through Steamboat Slough

A. We did not run through
Steamboat Slough.

Q. Well through old river
then? A. No

Q. Do you say you were
the person who ~~held~~^{was} the
Chief Pilot from Rio
Vista up to Sacramento
during 1877.

A. No I do not. I say I
was Pilot on these boats

Q. You were Pilot? A. Yes

Q. State now distinctly,
were you not there in the
character of an Assistant
Pilot

A. Not that I am aware
of. I was on the books as Pilot

Q Does this map represent

The levees A No

Q. Did you not have any curiosity on that subject.

A. There are some levees marked there - one or two ~~small~~ ^{cross} levees

Q. One or two cross levees?

A. The Freeport levee I think is marked there

Q. That is a cross levee running out at angles with the river

A. Yes

Q But I am speaking of levees on the bank of the river. A. No there is not

Q. Did you have no curiosity on that subject, at the time you made this map, to have them represented also

A. I did undertake to draw a levee on the bank of the river, but I failed. I could not execute the drawing

Q. Why could not execute the drawing? You have got houses and trees, etc. on your map

A I was not ^{artist} ~~answer~~ enough
to make a levee on the bank
of the river

Q. It would have been easy
to have indicated where the
leaves were, would it not?

A. The leaves were right
along the bank of the river.
There is nothing else to
indicate them

Q. On both sides? A. Yes.

Q. There is a place called
Randall's Island; what forms
that into an island?

A. There used to be a slough
around that island, back of
that island, and deep water

Q. When? A. Before I
knew the river

Q. When did you first come
on the river?

A. It was in June or July,
1877.

Q. What was the condition of
that slough then? was it open

A. No

Q. It was closed up
a closed up.

Q. By leaves. A. Yes

Q. There is a slough marked Merrets' Slough marked here, is there not. What was the condition of that?

A. Merrets' Slough was closed up

Q. When you came on the river?

A. Yes.

Q. Closed ~~up~~ ^{by} a levee was it not? A. I presume so. There was no opening into the river from it.

Q. There is a place there called Merrets' Island. Why was that called Merret's Island?

A. I could not say

Q. Well, you have marked it Merret's Island

A. That is the name it goes by

Q. Is that formed also by a Slough? A. By several Sloughs. I do not know, I do not pretend to know, what forms that Island in back. I only know - the river where it joins the river

Q. Could you not tell the extent of that outlet, looking

off from the pilot house of your boat when you passed by. A No

Q. How near did the tules come up to the bank of the river in places

A. In some places it is very narrow, ~~just~~ ^{it is} perhaps 100 yards in some places, in other places it is wider

Q. What is this black shaded line, generally on the front of the river, up and down there

A. That represents nothing; only the outline ^{side} of the drawing

Q. What scale is this map made upon?

A. I never put the scale on it

Q. Do you know what the scale is, or has it any?

A. I can only give it as I know it by steering it

Q. What? A I can only give it as I know it by steering it. What we call steamboat miles, it is 53 miles in length

Q. This represents then the whole length of it; about 53 miles in length of the river A. Yes. A surveyor might make it a trifle different, perhaps

Q. Do Steamboats ground at all in going through Old River? Is there any difficulty in going through Old River except that they go slower than in former years, as you say

A. That depends upon the draught of the boat altogether

There is not water enough for tug boats to run up the river to any great extent

Q. For what boats?

A. Tug boats, what we call propellers

Q. I am speaking of such boats as are usually employed here; such boats as the Modoc and Apache

A. The Modoc and Apache are - Q. {Intq} I am not asking you the character of the boats, but my question is;

Do they have any difficulty in going through Old River.

A. The Modoc and Apache steer by steam, and that makes it easier

Q. Steer by steam? A. Yes. If they had to steer by hand it would take 2 men where now it takes but one; and you would have to run slow; that is you could not run full speed, and it would be very difficult then

Q. That river is very crooked, is it not; the channel especially

A. Not as crooked as some rivers, not very crooked

Q. Why do you not answer my question. I ask you whether it is a very crooked river?

A. No, it is not a very crooked river

Q. Is the channel straight or is it crooked?

A. The channel is crooked. The river is crooked. But I say it is not very crooked

Q. Is not that pretty crooked

along there {pointing} would you, not call that pretty crooked

A. There are a great deal crookeder rivers than that

Q. I suppose there maybe. But I am not inquiring about other rivers, I am inquiring about this one

A. I told you that was crooked.

Q. Does not the crookedness of a river have something to do with navigation

A. No; not a river not any crookeder than the Sacramento. It does not interfere with navigating a boat at all.

Q. Do they not go slower on a river that is crooked than they go on a straight one

A. No. There are no tight places, no short bends on the Sacramento

Q. As a Pilot you stated as your opinion, that on a crooked river navigation

is equally as good as on a straight river, everything being considered.

A. That depends on the other characteristics of the river.

Q. There a great many names on the river on both sides. How did you get the names? Are you acquainted with all those men

A. I know every place below Freeport on the east side, and every place below Clarksburgh on the west side. I know them all. And I know most of them above

Q. You know all these men personally do you?

A. I am not acquainted with them personally, not all of them

Q. How do you know them? How did you get your information in regard to these names? How did you obtain these

names? A Because I was landing on the fruit ranches, landing at all these ranches, or most of them

Q, At how many places now do boats land between Sacramento and the mouth of Old River? How many landings altogether would there be to get fruit and other freight

A, Some seasons there are more than others. There are somewhere between 100 and 200 landings. The landings are not kept up always.

Q, You say between 100 and 200 landings between here and - A, R Inty? Do you speak of the bank landings?

Q, I suppose; I mean landings at the bank of a river; I do not know of any other kind

A Yes. They are all marked there with little crosses.
Mr Cadwalader. The different landings?
A Yes.

Mr. Catlin. Then there is
a landing about every
mile?

A. Oh yes, thicker than
that in some places. There
would be two landings some-
times in one ranch

Q. How? A. Some
ranches have two landings
and some three landings?

Q. You say there are between
100 and 200 landings be-
tween here and there?

A. Yes.

Q. Can not you put it a
little nearer, one hundred
and fifty or one hundred
and eighty?

A. Some years there are
more than others. Whenever
they wanted to ship fruit
and vegetables, they clear
their banks so as to make
a landing for that season

Q. Then all along the river
wherever any body has a
ranch or some fruit they
land right there and take it

A. If the river is suitable at that point to make a landing

Q. There are then between 100 and 200 such places?

A. Yes

Q. Where they are in the habit of landing?

A. Yes. At the present time, or at least when the map was made

Re-direct Examination Of William S. Joy

Mr. Cadwalader. The first thing a pilot does is to learn the river is it not? A. Yes

Q. That is learning the banks, bars and channel is it not?

Mr. Catlin. We object to going over that ground again. It is leading and not proper re-direct Examination

Mr. Cadwalader The point is this: You object to

this map
 Mr. Catlin We do not ob-
 ject to its going in for what
 it is worth
 Mr Hart. Let it go in then
The Court. Let it come in
 as a map in connection
 with this testimony

" —————
 Recess until Doctober
 P M

